DOCUMENT RESUME

ED 226 907 RC 013 882

TITLE	Native American Rights Fund: 1981 Annual Report.
INSTITUTION	Native American Rights Fund, Boulder, CO.
SPONS AGENCY	Ford Foundation, New York, N.Y.
PUB DATE	81
NOTE	87p.
PUB TYPE	Reports - Descriptive (141)
EDRS PRICE	MF01/PC04 Plus Postage.
DESCRIPTORS	American Indian Education; *American Indians; *Civil Liberties; *Court Litigation; *Federal Indian Relationship; Human Services; Laws; *Natural Resources; Tribes
IDENTIFIERS	*Native American Rights Fund; *State Tribal Relationship; Tribal Status

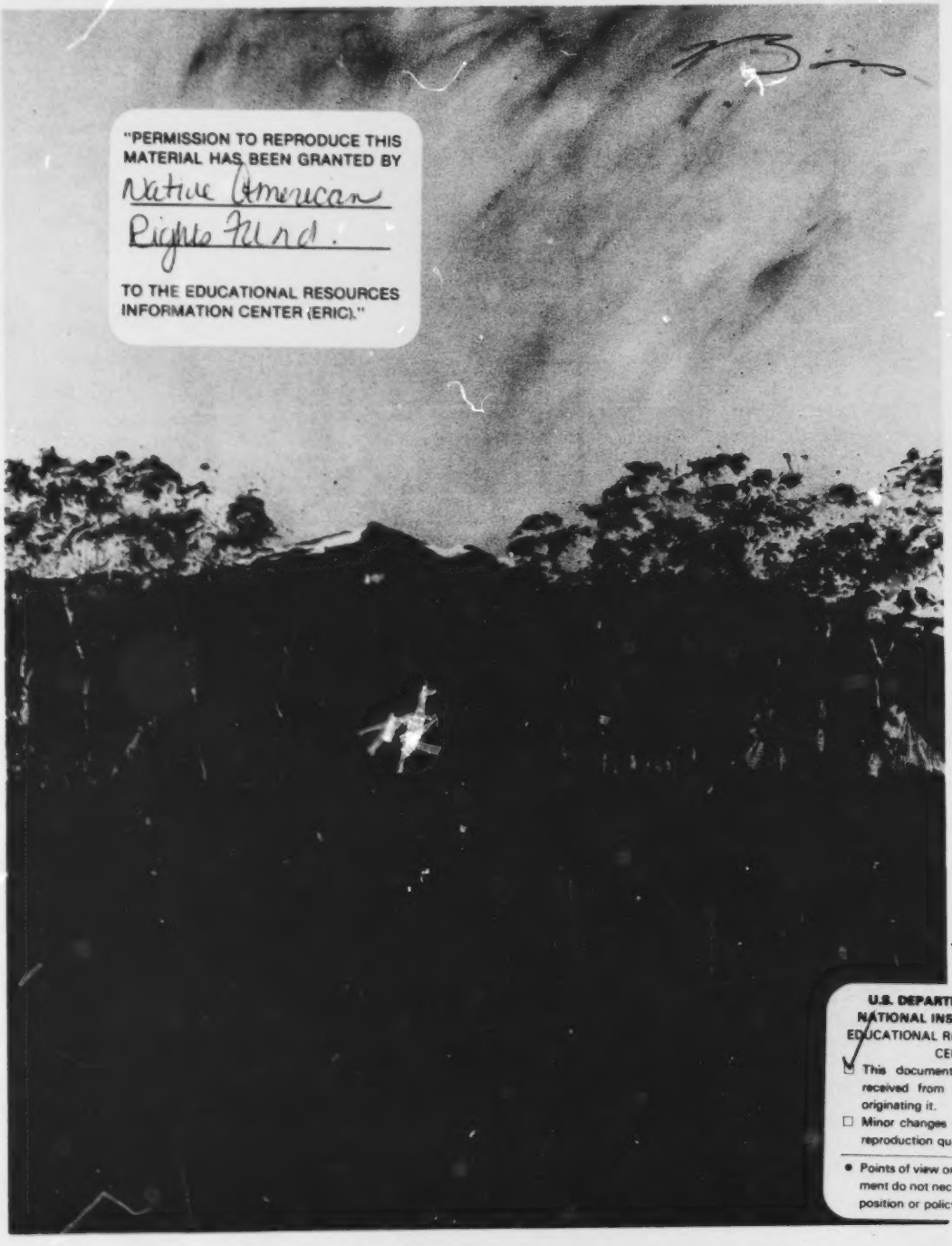
ABSTRACT

In 1981 the Native American Rights Fund (NARF) continued its program of providing legal representation to Indian tribes and groups in cases of major significance to Indian people throughout the country. Many significant Indian rights victories were achieved in 1981 in the areas of tribal existence, Indian natural resources protection, human rights and government accountability, and Indian education. After a detailed description of NARF, major activities during 1981 are presented in five sections: preserving tribal existence (25 cases); protecting tribal resources (36 cases); promoting human rights, which includes Indian education (19 cases); holding all levels of government accountable to Native Americans (10 cases); and furthering the development of Indian law (17 activities). The treasurer's report concludes the report. (ERB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED226907

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
Native American Rights Fund.
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."



U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☑ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

NATIVE AMERICAN RIGHTS FUND
1981 ANNUAL REPORT

RC01 3882

BEST COPY AVAILABLE

Steering Committee

David Risling, Jr. (Hoopa), Chairman
Val Cordova (Taos Pueblo), Vice-Chairman
Robert Bojorcas (Klamath)
Curtis Custalow, Sr. (Mattaponi)
ReNee Howell (Oglala Sioux)
Roger Jim (Yakima)
Bernard Kayate (Laguna Pueblo)
Leo LaClair (Muckleshoot)
Louis LaRose (Winnebago)
Leroy Logan (Osage)
Lois Risling (Hoopa)
Jerry Running Foxe (Coquille)
John Stevens (Passamaquoddy)

National Support Committee

Owanah Anderson (Choctaw)
Katrina McCormick Barnes
Iron Eyes Cody (Cherokee-Cree)
Val Cordova (Taos Pueblo)
Will H. Hayes, Jr.
Alvin M. Josephy, Jr.
David Risling, Jr. (Hoopa)
Will Sampson, Jr. (Creek)
Maria Tallchief (Osage)
Tenaya Torres (Chiricahua Apache)
Ruth Thompson
Dennis Weaver

Corporate Officers

John E. Echohawk (Pawnee), Executive Director
Jeanne S. Whiteing (Blackfeet-Cahuilla), Deputy Director
Mary L. Hanewall, Development Officer
Susan Rosseter Hart, Treasurer
Oran LaPointe (Rosebud Sioux), Secretary

Staff Attorneys

Lawrence A. Aschenbrenner
Kurt V. Blue Dog (Sisseton-Wahpeton Sioux)
Richard B. Collins
Richard J. Dauphinais (Turtle Mountain Chippewa)
Walter R. Echo-Hawk (Pawnee)
Douglas B. Endreson (Navajo)
Yvonne T. Knight (Ponca-Creek)
Arlinda F. Locklear (Lumbee)
Don B. Miller
Terry L. Pechota (Rosebud Sioux)
Robert S. Pelcyger
Anita M. Remerowski
Jeanne S. Whiteing (Blackfeet-Cahuilla)

Of Counsel

Bruce R. Greene
Thomas N. Tureen
Charles F. Wilkinson

Legislative Liaisons

Ada Deer (Menominee)*
Suzan Shown Harjo (Cheyenne-Creek)

Other Professional Staff

Gloria Cuny (Oglala Sioux), Administrative Assistant
Diana Lim Garry (Acoma Pueblo), Librarian
Marian Heymsfield, Head Bookkeeper
Rebecca Martinez, Office Manager
Bryce Wildcat (Pawnee-Euchee), Research Assistant

THE COVER: "Autumn on the Kour-Delanie With Reflections of Monet," is an oil painting reproduced through the courtesy of Crow Indian artist Earl Biss. The painting was also the poster art for NARF's second annual art show held in December 1981. The 21½ x 32, signed, exhibition poster is available for $32. All proceeds benefit NARF.

Support Staff

Lloyd Antone (Pima), Library Clerk†
Janice Black Elk (Oglala Sioux), Special Assignments*
Rose Bravo (Oglala Sioux), Legal Secretary
Rosetta Brewer (Cheyenne River Sioux), Receptionist
Mary Bumbera, Legal Secretary
Debra Echo-Hawk (Pawnee), Library Clerk†
Celia Echohawk, Library Assistant†
Erna Faulkner, Legal Secretary†
Sue Feller, Bookkeeper
Barry Fills Pipe (Lakota), Special Assignments*
Kathy Frohlick (Chicksaw-Creek), Legal Secretary
Joyce Gates (Seneca), Library Secretary
Sara Hobson (Navajo), Legal Secretary
Julie Hoxie, Legal Secretary*
James Jaramillo (Sandia-Isleta), Library Clerk†
Janette Joseph, Legal Secretary*
Sylvia Lohah (Ottawa-Chippewa), Library Assistant†
Jeff Lorencen, Printer
Mary Mousseau (Oglala Sioux), Library Clerk
Marilyn Pourier (Oglala Sioux), Legal Secretary
Mary Lu Prosser (Cheyenne River Sioux), Secretary
Kenneth Springer (Menominee-Omaha), Printer
Rena Tardugno, Legal Secretary
Patricia Tate (Santo Domingo Pueblo), File Clerk
Susan Tuttle, Bookkeeper
Steve Wheelock (Delaware), Library Clerk†
Margo Lee Williams, Secretary*
Wolfslayer (Mohawk), Special Assignments*

Law Clerks & Interns

Kevin Anderson, Law Clerk
Susan Driver, Law Clerk
Robert Eshman, Intern
Beth Fitts, Intern
Maggie Fox, Law Clerk
Lynn Hayes, Law Clerk
Harvey Hyman, Law Clerk
Kathy Jansson, Intern
Elke Kruse (Omaha), Intern
Gregory Lee (Chippewa), Law Clerk
Barbara Rath (Chippewa), Law Clerk
Margarethe Roderick, Intern
Gail Small (Northern Cheyenne), Law Clerk
Sandra Snyder (Seneca), Intern
Jeannette Wolfley (Navajo-Shoshone), Law Clerk
Christine Zuni (Isleta Pueblo), Law Clerk

†Part Time Staff
*Resigned in 1981

SEP 1982
RECEIVED
ERIC/CRESS

Introduction

The Annual Report of the Native American Rights Fund originated as our official report to the Ford Foundation which awarded the initial grant founding NARF in 1970. The continued support of the Ford Foundation has been essential to NARF's work on behalf of Native Americans throughout the country during the last 12 years.

NARF has since been fortunate in receiving additional support from numerous other foundations and corporations, federal agencies, church groups, Indian tribes, and thousands of individual contributors from around the country. Therefore, this Annual Report has become our report to many of these new supporters as well as to the Ford Foundation.

Recipients of our past Annual Reports will notice that we have made some significant changes in the style and contents. We have also changed the report period from the calendar year to coincide with our fiscal year, which is October 1, 1980 to September 30, 1981.

CONTENTS

Message from Steering Committee Chairman	2
Executive Director's Report	3
The Program	7
The Founding of NARF	8
The Priorities	9
Organization and Administration	10
National Support Committee	14
The Supporters of NARF	15
The Year's Activities	17
Preservation of Tribal Existence	19
Protection of Tribal Resources	27
Promotion of Human Rights	43
Accountability of Governments	49
Development of Indian Law	52
Map of 1981 Activities	40
Treasurer's Report	57
Appendices: Professional Staff Listing	73
State Index	79

Credits: Art work: "Decorative Art of the Southwestern Indians," Dorothy Smith Sides, Dover Publications, Inc. Photos: Suzan Shown Harjo by Ann Lequer (p. 12). U.S. v. Michigan Fishing Scene by Linda Alaniz (p. 28).

Main Office: Executive Director, Native American Rights Fund, 1506 Broadway, Boulder, Colorado 80302 (303-447-8760). Washington, D.C. Office: Directing Attorney, 1712 N Street, N.W., Washington, D.C. 20036 (202-785-4166).

Message from the Steering Committee Chairman

Leo LaClair

The eleven years since the establishment of the Native American Rights Fund has been witness to many successes in the Indians' struggle to protect their rights. In the courts and in Congress, this country's moral and legal obligations to Native Americans have been recognized in many instances. The Native American Rights Fund has played a major part in many of these successes. In hundreds of cases over the years, NARF has provided expert legal representation to Native Americans in need. The Steering Committee is rightfully proud of the role the Native American Rights Fund has had in the Indian rights struggle since its establishment in 1970.

In the 1980s, the Indians' fight for survival will continue in the courts and in Congress, for anti-Indian interests are forever attempting to wipeout Indian treaty and other rights vital to Indian existence. As it has in the past, NARF intends to play a major role in Indian rights protection in the coming years. However, in order to continue to provide legal assistance to Native Americans throughout the country, it is critical that we secure the necessary financial support. We thank all those who have helped us in the past, and hope that you will continue with us now and in the future.

BEST COPY AVAILABLE

"The white man does not understand America. He is too far removed from its formative processes. The roots of the tree of his life have not yet grasped the rock and the soil. The white man is still troubled by primitive fears; he still has in his consciousness the perils of this frontier continent, some of its vastness not yet having yielded to his questing footsteps and inquiring eyes. He shudders still with the memory of the loss of his forefathers upon its scorching deserts and forbidding mountaintops. The man from Europe is still a foreigner and an alien. And he still hates the man who questioned his path across the continent. But in the Indian the spirit of the land is still vested; it will be until other men are able to divine and meet its rhythm. Men must be born and reborn to belong. Their bodies must be formed of the dust of their forefathers' bones." — Luther Standing Bear (Ponca).

Director's Report

Executive Director's Report

In 1981 the Native American Rights Fund continued its program of providing legal representation to Indian tribes and groups in cases of major significance to Indian people throughout the country. The task was made more difficult by the impending federal budget cuts proposed by the new Administration in Washington, which threatened NARF's ability to meet commitments to Indian clients dependent on NARF for access to justice. Despite these difficulties, many significant Indian rights victories were achieved in 1981.

In the area of preserving tribal existence, NARF was successful in gaining federal recognition of the tribal status of the Tunica-Biloxi Tribe of Louisiana, thereby entitling them to federal protection and services. In Oklahoma, NARF was instrumental in obtaining a court settlement recognizing the Pawnee Tribal Reserve as Indian country and barring the imposition of state sales taxes on a tribally-licensed business thereon. Through NARF's efforts, legislation was finally introduced in Congress to remedy the problems of the forgotten Texas Band of Kickapoo Indians regarding their citizenship status, a landbase and social services.

In the area of Indian natural resources protection, the Pyramid Lake Paiutes of Nevada, with NARF's assistance, won the right to assert their superior water rights against a governmental reclamation project whose diversions have threatened the Tribe's valuable fishery. Similarly, the Muckleshoot Tribe of Washington, represented by NARF, established the jurisdiction of the Federal Energy Regulatory Commission over a hydroelectric power project which adversely affects the tribal fishery and can now seek

modifications in the project to protect the fishery. In a major treaty rights victory, the Bay Mills Chippewa Tribe, represented by NARF, and other area tribes had their treaty fishing rights in the Great Lakes upheld by a federal appeals court. In Oregon, in the culmination of a case begun in 1973, NARF negotiated a settlement for the Klamath Tribe with the State of Oregon recognizing tribal authority to regulate tribal members exercising their surviving treaty hunting and fishing rights on former reservation lands. With regard to land protection, NARF obtained a favorable federal district court decision regarding the Yankton Sioux Tribe's ownership of a lakebed on the reservation claimed by the State of South Dakota. Legislation was also passed through NARF's efforts to enable the restored Siletz Tribe of Oregon to acquire a 40-acre tract for community purposes, thus completing their acquisition of a new 3,600-acre reservation following restoration of their federal tribal status. In New England Indian land claims matters, the Gay Head Wampanoags approved a settlement proposal involving 400 acres, the Western Pequots approved one involving 600 acres, and work continues to obtain the necessary state and federal legislation to settle the cases.

In the areas of human rights and government accountability, NARF worked extensively with other Indian organizations and tribes in educating the Congress on the potential impacts of the huge Indian budget cuts proposed by the new Administration and, as a result, many of the proposed cuts were restored by Congress. NARF also became involved in census advocacy efforts on behalf of the Keweenaw Bay Indian Community in Michigan and thus was successful in obtaining special Indian reservation counts and procedures to deal with tribal challenges to the counts. NARF continued its work in the Indian religious freedom area, obtaining an Indian sweat lodge for Indian inmates at

an Iowa prison. In the area of Indian education, NARF's efforts resulted in a Department of Education ruling that an Oklahoma school district was not in compliance with regulations requiring Indian parental participation in the planning of federal impact aid funds. Legislation was also introduced in Congress to correct land title problems inhibiting the development of D-Q University, an Indian controlled college in California.

In order for NARF to sustain its national Indian legal representation in 1981 and beyond, additional sources of support must be found to replace lost federal funds. NARF has expanded its foundation, corporate and individual fund raising efforts and in 1981 also adopted a limited fee policy for new clients with ability to pay all or part of the costs of representation. These new efforts show some promise of sustaining the program in future years. We wish to thank all those who have supported NARF in 1981 and encourage others to contribute toward the progress that is being made by Native Americans in the American justice system.

John E. Echohawk
Executive Director

"We do not know if school histories are pro-British, but we do know that they are unjust to the life of our people — the American Indian. They call all white victories, battles, and all Indian victories, massacres . . . White men who rise to protect their property are called patriots; Indians who do the same are called murderers . . . White men call Indians savages. What is civilization? Its marks are a noble religion and philosophy, original arts, stirring music, rich story and legend. We had these . . . We sang songs that carried in their melodies all the sounds of nature — the running of waters, the sighing of winds, and the calls of the animals. Teach these to your children that they may come to love nature as we love it. We had our statesmen — and their oratory has never been equalled. Teach the children some of these speeches of our people . . . Why not teach the children more of the wholesome proverbs and legends of our people? Tell them how we loved all that was beautiful. That we killed game only for food, not for fun . . . Tell your children of the friendly acts of Indians to the white people who first settled here. Tell them of our leaders and heros and their deeds . . . Put in your history books the Indians' part in the World War. Tell them how the Indians fought for a country of which he was not a citizen, for a flag to which he had no claim, and for a people that have treated him unjustly. We ask this to keep sacred the memory of our people." — Grand Council Fire of American Indians (1927).

The Program

The Program

The Native American Rights Fund is a national legal defense fund for this country's American Indians. Now entering its twelfth year, NARF has represented Indian clients in nearly every state in the nation. The hundreds of cases it has been involved in have concerned every area and issue in the field of Indian law. A brief review of NARF's origin will give a better understanding of NARF's role in the Native Americans' struggle to protect their rights in today's society.

The Founding of NARF

As part of the War on Poverty which was launched in the mid-1960s by the Office of Economic Opportunity, federal legal services programs were established around the country to provide legal services to poor and disadvantaged people. Many of these programs were established on or near Indian reservations. As these Indian legal programs began working with Indian clients, the attorneys began to realize that Indians had unique legal problems which were, for the most part, governed by a specialized and little known area of the law consisting of hundreds of Indian treaties and court decisions, and thousands of federal statutes, regulations and administrative rulings.

Most legal services attorneys working in these Indian communities were just out of law school and others were generally inexperienced in Indian law. Although much of their work with Indian clients consisted of the same types of legal problems faced by other legal services programs, Indian programs had to contend more and more with this body of "Indian law" as they became more aware of its relevance to the legal rights of their Indian clients. This was especially so for legal services located on reservations where the presence of Indian trust land, tribally-owned resources, tribal governments and federal Indian laws necessarily involved the most basic tenets of Indian law.

Consequently, legal services lawyers working on Indian law cases often became involved in matters which had national implications for all Indians, for court decisions and can not always be restricted to the individual Indian or tribal clients immediately involved. It was clear to many, both in the Indian legal services programs and others working in Indian law, that cases involving major national issues of Indian law needed to be handled with the greatest consideration. What was needed were Indian advocates with experience and expertise in the field available to work throughout the country in a program sufficiently funded in order that important Indian cases were not abandoned for lack of money, but could be pursued through the courts regardless of how long it took to resolve the issues.

It was this state of affairs that the Ford Foundation confronted in 1970 when it became interested in considering the establishment of a national legal program for Indians. The Foundation sought out a program which had a proven successful record in litigating Indian rights. They eventually contacted California Indian Legal Services (CILS), one of the

federally-funded legal services programs serving Indians, and discussed the need for a national program to address major Indian legal problems. With Ford Foundation funding, CILS agreed to institute a pilot project to expand their services to Indians on a national level. That project became known as the Native American Rights Fund. As planned, NARF separated from CILS in 1971, relocated to Boulder, Colorado, and incorporated separately under an all-Indian Board, the NARF Steering Committee. In a few short years, NARF grew from a three-lawyer staff to a firm of over 40 full-time staff members, with 18 attorneys.

NARF's growth and success over the years is attributable to the validity of the original concept upon which it was founded - that a great need exists for legal representation of tribes and individual Indians on a national level regarding the protection of important legal rights related to their status as Indians. At the heart of this need is the common goal of all Native Americans to maintain their rights and traditional ways of life.

The Priorities

The Steering Committee of the Native American Rights Fund has established the priorities which NARF follows in determining its activities. Since NARF's inception, it has always been its policy to pursue cases and undertake projects which will have a national impact - cases and projects which will effect a great number of tribes and Indian individuals, and hopefully will lead to changes in the law for the benefit of all Native Americans. Since the purpose of NARF was to work toward favorable resolution of cases involving major Indian law issues, priorities had to be set by the original Board defining what they considered to be the important issues for NARF to get involved in as the organization got started and to guide it in the future. Also, the demand that NARF would face for its services as a national Indian law firm made it essential that priorities be in place in order to screen out lower priority cases as NARF's caseload reached maximum.

The five priorities which the original Board selected in 1970 have proven to be very successful choices. They have never been revised, although the Steering Committee has the authority to do so at any time. Following is a brief description of each of the priorities.

1. The Preservation of Tribal Existence. The future of the remaining Native American groups in this country depends primarily upon preserving their status as self-governing Indian tribes and Native Alaskan communities able to protect their traditions and Indian ways. This priority includes matters concerning federal recognition, restoration of terminated tribes, and tribal governmental authority and jurisdiction.

2. The Protection of Tribal Resources. Indian tribes caannot exist without a land base and natural resources, so NARF concentrates much of its efforts on protecting and asserting Indian rights to natural resources. Major resource protection includes land rights, water rights, hunting and fishing rights, and environmental protection.

3. The Promotion of Human Rights. NARF is concerned with securing basic human rights for Native Americans, such as educational rights, including students' rights and recognition of their cultural needs; adequate health care; Indian religious freedom rights; and Indian preferential employmem rights.

4. The Accountability of Governments. Native Americans have more laws and regulations governing their lives than other Americans. NARF works to hold all levels of government accountable for the proper enforcement of these laws.

5. The Development of Indian Law. The proper development of Indian law is essential for the security of Indian rights. This involves not only the establishment of favorable court precedents in major areas of Indian law, but also the compilation and distribution of Indian law resources to everyone working on behalf of Indian rights.

Organization & Administration

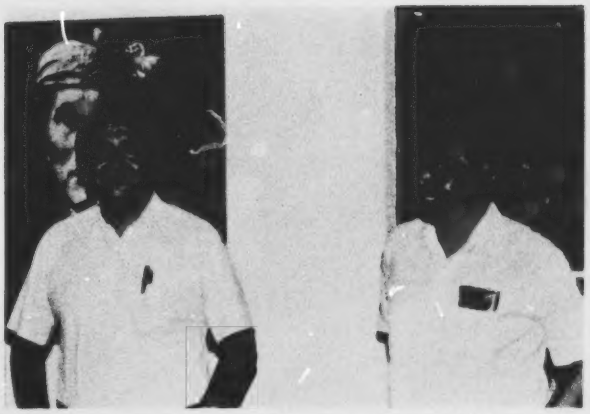
There have been many organizational changes in NARF's 12-year history, but the operational procedures and organizational structure have remained basically the same. After an initial rapid growth in its first few years, NARF has stabliized to approximately 40-45 staff members. From its inception, NARF has had an Indian preference policy which calls for the hiring of qualified Native Americans at both the professional and support staff level. Two-thirds of the attorneys and approximately three-fourths of support staff personnel are Native Americans. However, this policy does not prevent NARF from hiring qualified non-Indians where necessary, for NARF's paramount obligation is to its Native American clients and such obligation calls for the best personnel NARF can retain.

The Steering Committee

Consistent with the philosophy of Indian self-determination, NARF is governed by a 13-member Steering Committee composed entirely of Indian people.* This all-Indian Board charts the direction of NARF's activities under the priorities and policies they have established. The Steering Committee meets twice a year at NARF's Boulder Office. These meetings are devoted to discussions of policy; receiving reports from attorneys and the legislative liaisons on their cases and from corporate officers on their areas of responsibility; deciding on major administrative matters; and generally directing the activities of NARF.

Members are eligible for three consecutive two-year terms. They are chosen by current Board members on the basis of their involvement in Indian affairs and their knowledge of the issues. Only one change was made on the Board in 1981, when Lois Risling, a Hoopa Indian from California, was elected to fill a vacancy. David Risling, Jr., also a member of California's Hoopa Tribe, is one of the few

*Please see front pages for a complete listing of the 1981 Steering Committee members.



Board members Val Cordova from New Mexico, and Roger Jim from Washington.

remaining original Committee members. Mr. Risling continued as Chairman during the year, and Val Cordova, a Taos Pueblo Indian from New Mexico, served as Vice-Chairman.

It is the policy of the Steering Committee to keep NARF as non-political as possible and to concentrate on specific cases which will lead to directly promoting rights for Native American people. The decisions of the Committee are not always easy, for deciding on what issues are best pursued through the courts or through some other course of action is difficult. But each Board member's own particular experience in the conflict between Indian and non-Indian cultures adds a great deal of wisdom and foresight to the Committee discussions as they develop policies and priorities for NARF.

Because it is important that the Steering Committee be able to guide the NARF administration at all times on important matters requiring its advice or approval, the Board's Executive Committee is empowered to act on their behalf between the regular meetings of the full Committee. Under the NARF Bylaws, Chairman Risling and Vice-Chairman Cordova were automatic members of the Executive Committee. Bob Bojorcas, of Oregon's Klamath Tribe, and John Stevens of Maine's Passamaquaddy Tribe, served as the other members of the Executive Committee during the year, with Leo LaClair of Washington's Muckleshoot Tribe serving as alternate member. The

10
BEST COPY AVAILABLE

Executive Committee meets four times a year, and often conducts business through conference calls with the administration. At least two of their meetings are held on the home reservations of Steering Committee members. These on-site meetings are also attended by the Executive Director and generally by other NARF officers and attorneys.

The Directorship

The Executive Director is the chief operating officer of NARF and is responsible for the supervision and control of all the affairs of the organization in accordance with the policies and directives of the Steering Committee. Although not required by NARF's Articles of Incorporation or Bylaws, all three Directors NARF has had in its short history have been attorneys. And this may always be the case since a comprehensive understanding of law in general, and Indian law specifically, is a necessary requisite for the position.

Pictured, left to right, at a reception given in Washington, D.C. for the President's Advisory Committee on Women is Owanah Anderson, a member of NARF's National Support Committee; Ada Deer, legislative liaison for NARF; and Evelyn Blanchard, President of the Association of American Indian and Alaska Native Social Workers.

Terry Pechota, Staff Attorney

The present Director, John Echohawk, has been with NARF since it was founded. He has served as a staff attorney and in various directorship roles in the past twelve years. His experience enables NARF to maintain continuity in its program and to better plan for NARF's future.

The Director must work in close cooperation with the attorney staff on case litigation and other matters involving NARF's representation of Indian interests around the country. All meetings of the Steering Committee and the Executive Committee are attended by the Director, whose participation is important in order to inform the Board members on the status of NARF's current activities and any major problems that must be addressed. In May of 1981, the Steering Committee appointed staff attorney Jeanne Whiteing as Deputy Director. As Deputy Director, Ms. Whiteing serves as coordinator for NARF's litigation, advocacy and other legal assistance work.

The Attorneys and Legislative Liaisons*

NARF's success over the years is due to maintaining a high quality attorney and legislative liaison staff. The legal experience of the staff attorneys ranges from one to over 20 years. An important feature of the attorney staff is that two-thirds are American Indians, a unique distinction among law firms or legal services organizations in the country. The presence of these Native American

*See appendix for biographical sketches of attorneys and legislative liaisons.

BEST COPY AVAILABLE

Staff attorneys Walter "Bunky" Echohawk and Kurt Blue Dog.

attorneys, along with the non-Indian attorneys who join NARF because of their interest in Indian law and the legal rights of Indian people, gives NARF an important quality of sensitivity to Indian rights necessary for the proper representation of Indian tribes. All full-time attorneys are based at NARF's Boulder office, except for two attorneys who work out of NARF's permanent office in Washington, D.C., mainly on Eastern Indian rights.

Charles Wilkinson, former NARF staff attorney, returned to NARF briefly for the Summer while on sabbitical leave from his position as law professor at the University of Oregon.

During the January-September 1981 period, staff attorney Bruce Davies resigned, as did Ada Deer, one of NARF's legislative liaisons. Mr. Davies, an Oglala Sioux Indian from South Dakota, resigned in January to join a private law firm in Alaska which does considerable work for Native Alaskans. Ms. Deer, a Menominee Indian from Wisconsin, left in August to return to her former teaching position at the University of Wisconsin.

Suzan Shown Harjo, Legislative Liaison

In August, Douglas Endreson, a Navajo, joined NARF as a staff attorney. Mr. Endreson received his undergraduate degree in 1975 from Colby College of Waterville, Maine, and his J.D. degree in 1978 and L.L.M. in 1980 from the University of Wisconsin. In September, Terry Pechota, a member of the Rosebud Sioux Tribe of South Dakota, joined NARF as a staff attorney. A 1972 law graduate of the University of Iowa, Mr. Pechota worked for the South Dakota Legal Services for six years before he resigned to go into private practice. In October of 1979 until he joined NARF, he was the United States Attorney for the State of South Dakota. In addition to the full-time staff attorneys, NARF also retained Bruce Greene, Thomas Tureen and Charles Wilkinson as part-time of counsel attorneys for NARF to work on specific cases.

The work of NARF's legislative liaisons, Ada Deer and Suzan Shown Harjo, was of immense value to NARF's tribal clients in

BEST COPY AVAILABLE

Law clerks for NARF during the Summer of 1981 were Christine Zuni (left), Greg Lee and Gail Small.

1981. Their efforts were instrumental in protecting Indian rights in matters coming before Congress and the numerous federal agencies which deal with Indian affairs.

The Professional and Support Staff

The non-attorney professional staff works in such areas as finance, administration, program development, public relations and library services. The support staff consists of legal and administrative secretaries, clerks, printers, law clerks and interns, and other staff indispensible to the operation of NARF.

In February, Mary Hanewall joined NARF as Development Officer after having worked in fund raising for several years in Wisconsin for a variety of public and private organizations. Over the last four years, NARF has had to make major administrative changes in order to broaden its funding base throughout the public and private sectors. A full-time Development Officer position was established in 1979 to enable NARF to expand into new areas of fund raising and to improve existing funding sources. In her position as Development Officer, Ms. Hanewall is responsible for overseeing all of NARF's fund raising efforts in such divergent areas as foundations, corporations, federal agencies, direct mail, tribal solicitations, deferred gifts and other sources.

Rebecca Martinez, NARF's Office Manager

Financial Accountability

NARF is a non-profit charitable organization incorporated under the laws of the District of Columbia, and is classified by the Internal Revenue Service as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code. In 1973, NARF was classified as an organization that is "not a private foundation" as defined in Section 509(a) of the code because it is an organization described in Sections 179(b)(1)(A)(VI) and 501 (a)(1). This classification relieves private foundations of expenditure responsibility for grants they may make to the Native American Rights Fund. All contributions to NARF are tax deductible.

NARF's accounting system is maintained in accordance with the statement of position on accounting principles and reporting practices for certain non-profit organizations as set forth by the American Institute of Certified Public Accountants in September 1971. NARF also meets the basic standards in philanthropy of the National Information Bureau, and the standards for charitable solicitations of the Council of Better Business Bureaus. NARF's financial records and statements are audited each year by a firm of independent, certified public accountants. Their report for NARF's 1981 fiscal year, October 1, 1980 to September 30, 1981, is included in this Annual Report and is available separately upon request.

BEST COPY AVAILABLE

National Support Committee

In 1981, NARF established a National Support Committee as part of its comprehensive fund raising development plan. The Committee members come from a variety of backgrounds. All, however, support the efforts Native Americans are making to protect their rights in today's society, and NARF is greatly appreciative of the commitment these individuals have made by joining the Committee. Their participation in NARF's fund raising efforts ranges from personal endorsement of NARF's work, to active involvement in fund raising activities, financial support, and making contacts for NARF with potential corporate, foundation and individual donors.

The present members of the National Support Committee are as follows: **Owanah Anderson** (Choctaw, Oklahoma), Project Director of the Natonal Women's Program Development. **Katrina McCormick Barnes** (Colorado), a founder of "Scholarships, Educators and Defense Fund for Racial Equality." **Iron Eyes Cody** (Cherokee-Creek, California), actor. **Val Cordova** (Taos-Pueblo, New Mexico), Principal of the San Felipe Day School and former Vice-Chairman of NARF's Steering Committee. **Will H. Hays, Jr.** (Indiana), writer. **Alvin Josephy, Jr.** (Connecticut), author and current President of the National Council of the Institute of the American West. **David Risling, Jr.** (Hoopa, California), Coordinator of the Native American Studies Program at UC-Davis, Chairman of the Board of Trustees

Val Cordova

Iron Eyes Cody

Will H. Hayes, Jr.

Alvin M. Josephy, Jr.

Owanah Anderson

Katrina Barnes

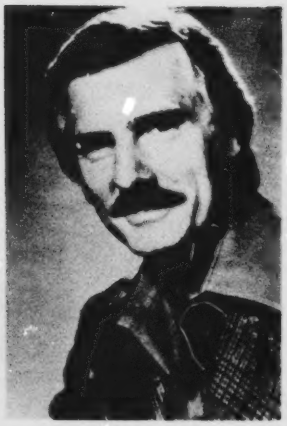
David Risling, Jr.

Will Sampson, Jr.

BEST COPY AVAILABLE

Maria Tallchief

Tenaya Torres



Dennis Weaver

of D-Q University, and former Chairman of NARF Steering Committee. **Will Sampson, Jr.** (Creek, California), actor, producer and artist. **Maria Tallchief** (Osage, Illinois), America's first Prima Ballerina and currently artistic Director for the Chicago City Ballet. **Ruth Thompson** (Connecticut), long-time NARF supporter and Indian Affairs activist. **Tenaya Torres** (Chiricahua Apache, California), actress. **Dennis Weaver** (California), actor and producer.

NARF plans to increase the size of the Committee from these current twelve members, to expand the members' involvement in NARF's fund raising activities, and to broaden NARF's financial support throughout the country with the help of the National Support Committee.

The Supporters of NARF

Over the years, NARF has received the support of many foundations, companies, federal agencies and a variety of other supporters, including church groups, Indian tribes and thousands of individual donors. Following is a list of grantors who provided substantial support to NARF during our 1981 fiscal year.

The **Ford Foundation**, which provided the founding grant for NARF, continued its support of NARF's work in 1981. In addition to general support, the Foundation provided a grant for an "Indian Education Legal Support Project." We greatly appreciate the support of Shepard Forman, R. Harcourt Dodds and Edward J. Meade, Jr. of the Ford Foundation. • We would like to thank Bernard Charles and Arlene Kahn of the **Carnegie Corporation** for Carnegie's continued support of the "Indian Lawyer Intern Project," which has enabled NARF to hire and train recent Indian law school graduates. • The **Lilly** Endowment, through the efforts of Richard Ristine and Susan Wisely, provided support for NARF's work in the protection of western tribal water rights. • We also appreciate the support of the **Edna McConnell Clark Foundation** and would like to thank Jack Coleman for his support of NARF's work. • The **Muskiwinni Foundation** continued to support the work of staff attorney Arlinda Locklear, and we would like to thank Patricia Hewitt for her efforts on NARF's behalf. • NARF also thanks the **Aetna Life & Casualty Foundation** and Robert Roggeveen for the general support grant awarded in 1981. • The **Fanny and Svante Knistrom Foundation** awarded NARF a grant to enable us to continue our work on Eastern Indian land claims and federal recognition. We appreciate the support of Gregory Buesing for NARF's work in this important area. • The **McIntosh Foundation** provided a grant for NARF's Indian water rights protection work and we thank Michael McIntosh for the Foundation's support. • The general support grant from the **Cummins Engine Foundation** is greatly appreciated and NARF's thanks go to Diane Leslie for her efforts on behalf of NARF. • The support of the **Grace**

BEST COPY AVAILABLE

Foundation and Richard Morris is appreciated, as is that of Joe Black the **Greyhound Corporation,** and Kent Ware and the **Gulf Oil Corporation.**

For the past several years, the **Administration for Native Americans** has been a major source of support for NARF's work and we would like to thank David Lester, Tom Vigil and Dorothy Johnson of ANA for their continued support of NARF's program. • We also thank the **Law Enforcement Assistance Administration** of the Justice Department for its support of NARF's work on behalf of Indian inmates. • For ten years, NARF has been providing legal assistance to Indian legal services programs through the operation of the Indian Law Support Center, which is funded by the **Legal Services Corporation.** In 1981, LSC also awarded NARF a special grant for support of the "Tribal Recognition Project." We thank Alan Houseman and Sharon Eads for their support of NARF's work. • The **Bureau of Indian Affairs,** through its Office of Trust Responsibility, provided funds needed in several of NARF's cases for special consultant work, and we appreciate the efforts of Sam St. Arnold, Guy Fringer and Peter Markey.

In addition to those persons mentioned above, NARF would like to thank everyone else associated with the foundations, companies and federal programs. Individual contributors to NARF for 1981 are too numerous to name, but those who contributed $100 or more listed in the Treasurer's Report. It is the support and good wishes of these people which enables NARF to continue with the work of protecting the rights of Native Americans throughout the country.

"The earth was created by the assistance of the sun, and it should be left as it was. . . . The contry was made without lines of demarcation, and it is no man's business to divide it. . . . I see the whites all over the country gaining wealth, and see their desire to give us lands which are worthless. . . . The earth and myself are of one mind. The measure of the land and the measure of our bodies are the same. Say to us if you can say it, that you were sent by the Creative Power to talk to us. Perhaps you think the Creator sent you here to dispose of us as you see fit. If I thought you were sent by the Creator I might be induced to think you had a right to dispose of me. Do not misunderstand me, but understand me fully with reference to my affection for the land. I never said the land was mine to do with it as I chose. The one who has the right to dispose of it is the one who has created it. I claim a right to live on my land, and accord you the privilege to live on yours."
— Heinmot Tooyalaket (Chief Joseph) of the Nez Perces.

The Year's Activities

Introduction to 1981 Activities

The activities reported on in this section include NARF's major involvements during 1981 throughout the country. There were other matters conducted during the year which are not reported because they did not involve substantial attorney time.

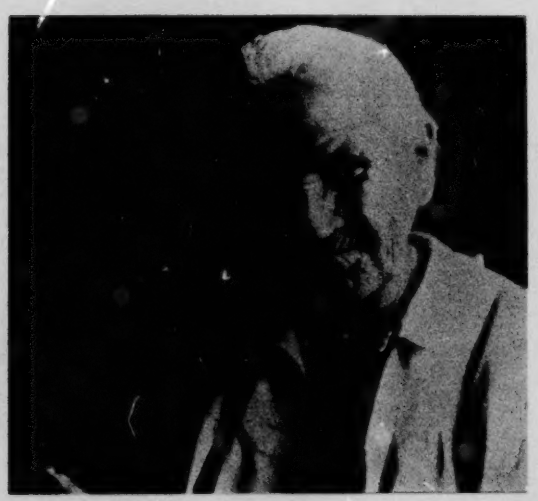
The cases in the following pages are divided into NARF's five priority areas of preserving tribal existence, protecting tribal resources, promoting human rights, holding all levels of government accountable to Native Americans and furthering the development of Indian law.

We would like to acknowledge that in many of the following cases, NARF is working in association with private attorneys, law firms, other Indian rights organizations or legal services programs.

Preservation of Tribal Existence

Tunica-Biloxis Federally Recognized

On September 25, 1981, the Department of the Interior issued a final decision granting the Tunica-Biloxi Indians of Louisiana federal recognition status. In December 1980 Interior had published a favorable preliminary finding on the Tribe's petition for recognition. During the ensuing comment period NARF negotiated with the State of Louisiana on their concerns over the recognition petition. In April 1981, the comment period expired without state filing any adverse comments on the Tribe's petition. NARF is now working on the Tribe's land claim which had been set aside until the federal recognition issue was settled. NARF had filed a litigation request in 1979 with the Interior Department on behalf of the Tunica-Biloxi which documented a claim to approximately 10,000 acres of the Tribe's aboriginal land in Louisiana. The request asked the United States to file litigation on the Tribe's behalf to recover the property or, in the alternative, sponsor a negotiated settlement of the claim. Now that the Tunica-Biloxi Indians are federally recognized, it is hoped that a negotiated settlement of the land claim can be reached.



A member of the Tunica-Biloxi Tribe of Louisiana. NARF was counsel for the Tribe in its successful petition to obtain federal recognition in 1981.

•

Alabama-Coushatta Restoration

The Alabama-Coushatta Indians of Texas are located on a 4,600-acre State reservation 90 miles north of Houston. The Tribe was once under the exclusive protection of the State of Texas until the 1920s, when the federal government acquired additional lands for their reservation and began providing federal Indian services. However, this brief federal relationship was terminated by Congress in 1954, but the State of Texas continued to act as trustee for the Tribe. Health and educational problems have increased dramatically, however, since the time of termination, and the Tribe now wishes to be restored to federal recognition status. This will require an Act of Congress, and the Tribe has retained NARF to assist them in this process. NARF attorneys are now in the process of compiling historical and socioeconomic data needed for preparation of the restoration legislation.

•

Mashpee Recognition

In the context of their land claim, an all-white jury determined in 1978 that the Mashpee Indians of Massachusetts did not constitute an "Indian tribe," and were barred from bringing the land claim. Since that verdict, the Department of the Interior has issued regulations under which it will determine whether an Indian group exists as a tribe. NARF is now representing the Mashpees in an effort to obtain federal recognition for them under these new regulations. The petition for recognition is now in final draft and should be filed in late 1981 or early 1982.

BEST COPY AVAILABLE

Catawba Land Claim

In a 1763 treaty with the southern colonies and the King of England, the Catawba Indian Tribe of South Carolina gave up possession of over two million acres in exchange for promises of a 144,000-acre tract on the present border of North and South Carolina. In 1840, South Carolina, without the consent of the federal government, concluded a treaty with the Catawbas which purportedly extinguished the Catawba claim to their reservation. In return, the State was to secure a new reservation for the Tribe and pay certain sums of money. However, the State never fullfilled its terms of this treaty. The basis of the Tribe's present land claim lies in the fact that the State treaty was concluded in violation of federal law, thereby rendering the sale of the 144,000 acres null and void. The Catawba Tribe has been attempting to settle its land claim since the 1880s. In the early 1900s, it filed two litigation requests with the Department of Interior.

Beginning in 1976, the Tribe began actively pursuing a legislative settlement to its claims. During most of 1980, activity centered around intensive negotiations with representatives of State and local governments and local land owners.

Following several months of negotiations, a special commission, authorized by the State legislature and appointed by the Governor, proposed a settlement which provided for the purchase of a small federal reservation close to the Tribe's present reservation; restoration of federal benefits and services for the Tribe and its members; establishment of a tribal economic development fund; and distribution of a portion of the settlement fund to individual tribal members.

Unfortunately, the State rejected the proposed settlement and the Tribe had no recourse but to file suit in federal court for the District of South Carolina seeking to regain possession of the entire 1763 treaty reservation. The State filed a motion to dismiss the suit, and NARF attorneys spent considerable time during 1981 on its motion in opposition to the dismissal motion. The matter is now pending before the District Court.

Tax Commission v. Mays

In November of 1980 the Pawnee Tribe of Oklahoma leased a building on their reservation to an Indian businessman for the purpose of operating a cigarette smoke shop. When it was learned that cigarette sales were made to Indian and non-Indian buyers without collecting any state taxes, the Oklahoma Tax Commission sued the smoke shop operation and to close the smoke shop pending obtaining a state license and collection of taxes. NARF represented the Tribe in filing an amicus curiae brief which argued that since the cigarette sales occur on an Indian reservation, the State has no jurisdiction to impose its tax. At a hearing held in May before State District Court, the State agreed to settle the case pursuant to the law presented in the NARF amicus brief.

•

Western Pequot Land Claim

The Western Pequot Tribe of Connecticut has been seeking the return of 800 acres of aboriginal land taken in violation of the 1790 Indian Non-Intercourse Act. An agreement was finally reached with the private landowners and the State of Connecticut on a proposed settlement which will provide the Western Pequots with approximately 600 acres of land. The proposed settlement calls for the United States to purchase approximately 575 acres of privately-owned land and for the State of Connecticut to convey to the Tribe an additional 25 acres including an ancient Indian burial ground. The reservation will also have the status of federal "Indian country," with Connecticut having some civil and criminal jurisdiction over individual conduct on the reservation. State regulatory laws, however, will have no impact on the Tribe.

The proposed settlement also calls for the Western Pequots to be federally recognized without going through the Federal Acknowledgement Project procedure (FAP) established by the federal government. Connecticut's support for the Pequot settlement is very encouraging, and it is expected that the State legislation to effectuate the Western Pequot claim will be enacted during 1982.

Menominee Constitution Workshop

Because NARF provided extensive technical and legal assistance to the Menominee Restoration Committee in the drafting of the Menominee Constitution and Bylaws, the Menominee Tribe invited NARF to conduct a workshop designed to provide an overview of the system of government established under the Constitution and Bylaws. Participants at the workshop consisted of members of the tribal legislature, tribal court judges, other court personnel, and members of the board of the Menominee forestry business. Particular emphasis was placed upon interrelationships among the legislature, the courts, and the business.

•

Traditional Kickapoo of Texas

The Texas Kickapoo, among the most traditional of all American Indians, are existing today in a state of limbo. Although most are members of the Kickapoo Tribe of Oklahoma, they have been denied citizenship by both the United States and Mexico, where they reside part of each year. They have no land base in the United States and live on land owned by the City of Eagle Pass, Texas, located on the U.S.-Mexico border. Jobs are few and virtually all tribal members live far below the proverty level. Health officials have documented extraordinary medical problems among the Kickapoo. However, since they do not have a reservation, they are denied desperately-needed federal health, housing, and other social services available to Indians who are members of federally-recognized tribes. The Associated Press has reported that the Texas Kickapoo are "the lost tribe of America" who must "walk an aimless trail of poverty."

For the past two years, NARF has been working on behalf of the Texas Kickapoo, initially studying the Band's history and legal status to see if it could qualify for federal recognition as a separate tribe. However, it was soon concluded that since most Texas Kickapoo are enrolled members of the Oklahoma Kickapoo Tribe, they could not qualify for separate federal recognition under the regulations established by the Bureau of Indian

Above: A member of the Texas Traditional Kickapoo Tribe at Eagle Pass, Texas, with the International Bridge in the background overlooking the Kickapoo village. Below: Kickapoo huts at Eagle Pass.

Affairs. NARF has since turned its efforts to obtaining a land base and social services for the Band. Since practically all federal Indian services are dependent upon the recipients being "on or near" an Indian reservation, NARF's efforts have been directed to getting a land base in Eagle Pass and putting it into trust status. To achieve these goals, a bill was drafted and introduced in Congress in September 1981. Hearings on the "Texas Band of Kickapoos Reservation Act" are scheduled for late October, and it is hoped that the bill will be enacted in 1982.

BEST COPY AVAILABLE

Kennerly v. Blackfeet Tribe

The Blackfeet Tribe of Montana operates a loan program for its tribal members which authorizes members to pledge as security for loans allotment lease rentals or other individual funds that are received by the BIA. When the Blackfeet Tribe was unable to collect loans from one Mr. Kennerly, it asked the BIA to pay over his lease rentals. When this was done, Mr. Kennerly initiated a suit challenging the BIA's regulation. The Interior Board of Indian Appeals upheld the regulation in the administrative proceedings, and an action was filed in U.S. District Court.

The suit attacked the BIA regulation for alleged lack of statutory authority and violation of due process of law. Since the Tribe and four of its officials were named as defendants, issues of tribal sovereign immunity and exhaustion of tribal remedies were raised. Because of the possible implications that this case could have on virtually all Indian tribes, NARF agreed to defend the Tribe and its officials. In response to the complaint, NARF has filed a motion to dismiss the case on the grounds that the Tribe is immune from suit in federal court; that its officials were acting in the normal course of their duties; and that, in any case, the Tribe did not violate plaintiff's right to due process. The case was pending at the end of September.

•

Tribal Revenue Bonds

As part of a project to assist Indian tribes in areas related to energy development, NARF investigated the feasibility of tribal revenue bonds as a means of raising money for public improvements on Indian reservations. The research led to NARF attorneys concluding that financing through tribal issuance of revenue or other bonds is possible but made difficult by a number of factors, such as: (1) unlike other units of local government, income from tribal bonds is taxable; (2) few tribes have a steady and reliable stream of income which they can pledge to retire the debt; and (3) tribal governments have little experience and no track record in this area.

Cheyenne-Arapaho Workshop

The Business Committee of the Cheyenne-Arapaho Tribes of Oklahoma, the governing body of the Tribe, invited NARF to conduct a tribal government workshop. NARF presented a workshop which addressed generally the theory of tribal government adopted under the Cheyenne-Arapaho Constitution and Bylaws, and focused, in particular, upon the ability of the Cheyenne-Arapaho Business Committee to take legislative action both in a procedural sense and with respect to selected substantive areas.

•

Pawnee Food Co-op

In an effort to promote the welfare of its members, the Pawnee Indian Tribe considered setting up a tribal food store which would sell basic food items at costs below that of similar items at local grocery stores. At the Tribe's request, NARF researched the possibilities of challenging the imposition of a state sales tax that would likely be imposed. Because the store would be on the reservation and organized pursuant to the Pawnee Tribe's self-governmental powers, the imposition of a state sales tax raises substantial jurisdictional questions.

In 1979, NARF learned that the State Tax Commission would, in all likelihood, attempt to impose a sales tax if the Tribe began operating the food store. NARF appeared before the Tax Commission on behalf of the Tribe and argued: (1) that Oklahoma does not have jurisdiction over the Pawnee Tribal Reserve Because it is classifiable as "Indian country" under federal law; (2) that federal law has preempted imposition of a state sales tax; and, (3) that the food store is a "federal instrumentality" and exempt from state sales tax under federal law. NARF sought and obtained an Interior Department legal opinion which held that the Pawnee tribal trust lands constitute an "Indian reservation." In 1981, the Tribe decided to withdraw its case pending before the Tax Commission for the reason that it was not yet prepared to begin operation of the food co-op.

Table Bluff Rancheria

In 1958, Congress passed the California Rancheria Act terminating the federal trust responsibility for the Table Bluff Rancheria and 40 other rancherias. At the time, living conditions on the rancherias were grossly substandard and their people lived in desperate poverty. The Act, later amended to include all rancherias and reservations in California, provided that termination and asset distribution would occur only after material improvements were made and services were provided by the federal government. Despite the fact that these services and improvements were never provided, the Rancheria was terminated and left in poverty with only title to the lands they owned already.

After years of unsuccessful administrative appeals, suit was filed to invalidate the termination. On September 22, 1981, Table Bluff received a favorable court ruling restoring the Indian status of the people and the recognized tribal status of the Table Bluff Band. The ruling also declared the Rancheria to be Indian country; provided for the return of individual Indian lands to federal trust status; and ruled that the people of Table Bluff are eligible for future and retroactive benefits denied them because of their terminated status. NARF is assisting the Table Bluff Rancheria and California Indian Legal Services in their efforts to mitigate the disastrous effects of the 1958 Act through new legislation.

•

Tribal Governmental Tax Status Act

Legislation to correct an Internal Revenue Service tax law interpretation that discriminates against tribal governments was introduced in Congress on June 2, 1981, with broad bipartisan sponsorship. The IRS interpretation states that tribal governments do not qualify for tax benefits accorded to states and local governments. Since tribes provide a full range of governmental services, they should receive equal treatment with other governmental entities.

The Indian Tribal Governmental Tax Status Act would not empower tribes to levy any taxes or exercise powers they do not now enjoy. Specifically, the legislation provides that: (1) persons paying certain taxes imposed by Indian governments would be entitled to deduct these taxes on their federal income tax returns; (2) contributions to tribes would be deductible for federal income, estate and gift tax purposes; (3) tribes would be exempt from certain excise taxes; (4) tribes could issue tax exempt bonds to raise funds for tribal projects and, subject to certain limitations, to issue tax exempt industrial development bonds.

Passage of the bill would strengthen the capability of tribes to produce needed revenue, improve their ability to serve their people, and advance the federal policy of Indian self-determination. NARF is working with tribes and Indian organizations to achieve passage of this bill during the 97th Congress.

•

Gay Head Wampanoag Tribe

After some three years of negotiations, on September 28, 1981, the Gay Head Wampanoag Tribe voted by a 3 to 1 margin to accept a proposed settlement of their land claims which had been reached between the Tribe's negotiating Committee and the Gay Head Taxpayers' Association, a representative group of potential non-Indian defendants. The proposed settlement provides for the conveyance to the Tribe of the "Gay Head Common Lands" (approximaely 230 acres), the so-called Cook Lands (approximately 10 acres), and a parcel known as the Strock Lands (including approximately 170 acres and comprising the last large undeveloped tract in the Town of Gay Head). Under the compromise agreement, the beaches adjacent to the common lands are to remain with the Town. The question of ownership of the beaches had been the major sticking point in the negotiations for approximately the last two years.

The agreement which has been reached is in the form of a Joint Memorandum of Understanding. This Memorandum requires further negotiation and revision, and more importantly, federal and state legislation must be drafted to effectuate the settlement. All of this will require further agreements between the Tribe and the non-Indian taxpayers and ratification

by both groups. It is anticipated that these documents can be drafted and agreed upon in the Spring of 1982 and introduced in Congress. NARF's experience with other settlements has shown that enactment of such legislation requires a minimum of six months.

•

Davis v. Mueller

In 1978, Thomas Davis was arrested within the boundaries of the North Dakota Turtle Mountain Chippewa Reservation by county officials without receiving an extradition hearing to which he was entitled under tribal law. The arrest of a tribal member within an Indian reservation by a state official in violation of tribal extradition laws, approved and recognized by the federal government, is a serious threat to tribal self-government. The Turtle Mountain Tribe has duly-adopted legal procedures whereby state and local officials can apply to tribal authorities to obtain custody of tribal members for any crimes allegedly committed outside the reservation boundaries. To allow local officials to ignore or circumvent tribal procedures would be to discredit tribal laws not only before local and state officials, but within the tribal membership itself.

The State courts, including the North Dakota Supreme Court, ruled that the tribal extradition procedures were not controlling. Because of the importance of the issue to tribal self-government, NARF agreed to represent Davis in proceedings in the federal courts. In 1979, the federal District Court denied Davis' application for habeas corpus, and NARF appealed to the Eighth Circuit Court of Appeals. In March 1981, the appeals court ruled against Davis. NARF then filed a petition for certiorari, seeking review by the U.S. Supreme Court, where the case is now pending (643 F.2d 521 (8th Cir. 1981)).

•

Siletz Reservation Establishment

In 1977, the Siletz Restoration Act restored the terminated Siletz Indian Tribe of Oregon to federal status. The '77 Act, however, did not provide for the establishment of a reservation, but rather called for the development of a plan for a reservation to be submitted to the Congress by the Tribe and the Secretary of the Interior within two years of the Restoration Act's enactment. The plan was submitted in 1979 and provided for the establishment of a 3,600-acre reservation containing more than $45 million worth of timber. In addition, the plan called for acceptance of the 40-acre Government Hill tract in the City of Siletz for use by the Tribe as headquarters for its government and the location of tribal community facilities. Income from tribal timber operations was projected to be sufficient to make the tribal government self-sufficient. In September 1980, President Carter signed the Reservation Plan into law.

During late 1980 and early 1981, activity consisted primarily of attempting to convince the Justice Department to accept title to Government Hill, which the City of Siletz wanted to donate to the Tribe. Because the agreement which the Tribe negotiated with the City contained a provision that should the Government Hill tract cease to be used for Indian reservation purposes, the City of Siletz would be permitted to buy it back, the Justice Department took the position that title could only be accepted on the condition that no government funds would be expended to construct any permanent structure on the tract. Title was accepted under those conditions, but the Justice Department, under both the Carter and Reagan Administrations has refused to approve title. Therefore, another Act of Congress was required which would direct the Secretary to accept title notwithstanding the reverter condition. NARF assisted in the drafting of the legislation and worked with congressional and committee staffs to secure its passage.

•

City of Sault Ste. Marie v. Andrus

Section Five of the Indian Reorganization Act authorizes the Secretary of the Interior to acquire through "purchase, relinquishment, gift, exchange, or assignment," land areas for "the purpose of providing land for Indians." The Act also provides that the title to any such lands is

to be held by the United States in trust for the tribe or individual Indians and that the land shall be exempt from state and local taxation. Acting under this authority, the Secretary put in federal trust a 79-acre parcel of land in the City of Sault Ste. Marie, Michigan, acquired on behalf of the Sault Ste. Marie Band of Chippewa Indians for a housing project. The City filed suit in 1977 to compel the Secretary to rescind his decision. The Tribe, represented by NARF and local counsel, intervened on the side of the United States and attempted to negotiate a settlement with the City, but these efforts failed. In 1980, oral argument on the motions for summary judgment were heard, with the City challenging the taking into trust on several grounds, and in the alternative, arguing that even if the land is properly in trust, the City has full jurisdiction over it. In September 1980, the Court decided all issues against the City. In February 1981, the City appealed, briefing was completed in June, and oral argument was scheduled for November 1981.

•

Logan v. Andrus

NARF is representing a group of Osage Indians who are seeking to clarify the nature and extent of the governmental powers of the Oklahoma Osage Tribal Council. The Council was created in 1906 when Congress passed the Osage Allotment Act under which the land was parceled out to members of the Tribe, but leaving the sub-surface mineral estate reserved to the Tribe to be managed by the Osage Tribal Council.

However, the plaintiff-members believe that for a number of years the Council has been exercising powers unrelated to the reserved mineral estate, and therefore, beyond the scope of authority granted to it by Congress. On February 3rd, a federal appeals court held that the Osage Tribal Council was not limited in its power solely to the administration of the Osage mineral estate, but has the authority to participate in and represent the Tribe in various federal programs available to Indian tribes. The case is now on petition for review before the U.S. Supreme Court (Logan v. Andrus, 640 F.2d 269 (10th Cir. 1981)).

Schaghticoke Land Claim

The Schaghticoke land claim for the return of 1,300 acres of aboriginal lands has moved slowly during the last several years for two basic reasons. First, the Mohegan Tribe of Connecticut (not a NARF client) pressed its land claims in court and in the process raised the issue of the applicability of the Non-Intercourse Act in the eastern states. NARF became involved as amicus curiae in this case (Mohegan Tribe v. Connecticut) in order to protect the interests of its tribal clients. Although the issue was ultimately resolved in the Mohegan Tribe's favor, neither the private defendants nor the State of Connecticut were willing to discuss the Schaghticoke claim until the Mohegan issues were disposed of. Secondly, the Schaghticoke Tribe itself became involved in an internal political conflict. The long-time leader of the Tribe, who was ousted in a tribal election, raised numerous issues which had the effect of further delaying discussion.

With the Mohegan issue now resolved and with the other Connecticut claim, the western Pequot claim, moving well, it appears that the Schaghticoke settlement discussions can now be resumed. Efforts are currently being made in this direction and it is hoped that the Schaghticoke settlement can be worked out in time to be considered by Congress along with the Western Pequot settlement in 1982.

•

Stockbridge-Munsee Land Claim

In 1980, the Stockbridge-Munsee Tribe of Wisconsin requested NARF's assistance in seeking either to recover possession of aboriginal lands in New Stockbridge, New York, or to negotiate a settlement of its claim. A six-mile square tract of land in New Stockbridge had been given to the Tribe by the Oneida Indians in 1788, but the Tribe lost possession of the land through a series of transactions with New York State. The United States never consented to nor approved of the transactions as required by the Non-Intercourse Act and, thus, the transactions are void. NARF agreed to represent the Tribe and have researched and drafted a litigation request. In March 1981, NARF presented a draft of the litigation request

to the Tribe for its approval. The request documents the Tribe's claim historically and legally, and asks the United States to assist the Tribe in settling the claim. On June 5, 1981, NARF filed the litigation request with the Department of the Interior where it is now pending.

•

Merrion v. Jicarilla Apache Tribe

When the Jicarilla Apache Tribe of New Mexico imposed a tribal severance tax on oil and gas production from its reservation lands, the producers, who are liable for the tax, brought suit in federal court to contest it. The U.S. Court of Appeals in Denver sustained the tribal tax, and the producers petitioned the U.S. Supreme Court for review which was granted. The case was briefed and argued to the U.S. Supreme Court during the Court's 1980-81 term, but a decision was postponed until the 1981-82 term. Although not counsel in the case, NARF attorneys researched some of the issues and made recommendations to the attorneys representing the Tribe. Reargument was expected in November 1981 (Merrion v. Jicarilla Apache Tribe, 617 F.2d 537 (10th Cir. 1980); U.S. Sup. Ct., Nos. 80-11, 80-15).

•

Mohegan Tribe v. Connecticut

Although NARF is not counsel in the land claims suit filed by the Mohegan Indians of Connecticut, NARF did file amicus curiae briefs on behalf of its Wisconsin and Thames Band Oneida clients since the Mohegan case could affect the Oneida land claims pending in New York. In Mohegan v. Connecticut, the Second Circuit Court of Appeals held that the Non-Intercourse Act of 1790 applies to all land throughout the United States - including Connecticut and the rest of the original 13 colonies. On June 22nd, the U.S. Supreme Court refused to review this decision. Thus, the Indian land claims suits based on the Non-Intercourse Act can now continue in the courts or negotiations accordingly, including NARF's claims on behalf of the Schaghticokes, Western Pequots and Wisconsin's Oneidas.

Blackfeet Tribe v. Groff and Montana

The state of Montana imposes four different taxes on oil and gas production, and claims that production from Indian tribal lands is subject to these taxes - either because federal statutes consent to the state taxes or because the taxes are imposed on non-Indian lessees of the tribes and not on the tribes themselves. In 1978, the Blackfeet Tribe brought suit in federal district court to contest the taxes. The court ruled against the Tribe and an appeal was taken. At that point NARF attorneys were retained to assist on the appeal. Oral argument is expected in 1982. The issues in this case may be affected by the disposition of the Merrion case now pending before the U.S. Supreme Court.

•

Askew v. Seminole

First filed by the State of Florida in 1976 in state court, this lawsuit will determine whether Florida sales taxes apply to on-reservation sales of businesses owned by the Seminole Tribe of Florida. NARF has been lead counsel for the Tribe since 1977. In 1978, NARF filed a motion for summary judgment on the Tribe's behalf, arguing that the Florida sales tax is a direct tax on a business owner, and that states cannot tax a tribally-owned business operated on the reservation. At the Judge's request, NARF submitted proposed findings of fact and conclusions of law in 1979, which, if signed by the Judge, would represent a complete victory for the Tribe. However, the Judge delayed deciding the case and in the meantime, the U.S. Supreme Court decided three Indian taxation cases that appeared to affect the Seminole case. At NARF's suggestion, the Judge asked the parties to brief the impact of the 1980 Supreme Court cases on the Florida Seminole case. The briefs were submitted in 1980 and as of September 1981, the case was still pending before the court.

Protection of Tribal Resources

Arizona v. California

This is a historical suit to adjudicate water rights in the lower basin of the Colorado River between the states of Arizona, California, Nevada, the federal government and five Indian reservations in which NARF represents the Cocopah and Chemehuevi tribes. The original opinion in this case was handed down by the Supreme Court in 1963. However, it later became apparent that the five tribes were entitled to additional water because of the federal government's failure to fully assert their claims during the 1963 trial, and by reason of the addition of irrigable lands as the result of the resolution of boundary disputes since 1963. In 1979 the Special Master appointed by the Supreme Court allowed the five tribes to intervene for the purpose of asserting these additional rights.

Extensive trial commenced in Denver in September 1980 and continued for four weeks. It resumed in Phoenix in January 1981 for another three weeks, continued in Atlanta for a two-week period in March and concluded with a one-day hearing in Pasadena, California on April 7, 1981. Numerous expert witnesses were presented by the tribes as well as the federal government and the defendant states and water districts; written reports were reviewed and analyzed and questions prepared for use at trial; numerous legal issues were raised which required research and briefing; and finally, the transcript of the trial, consisting of 7,297 pages, was reviewed and summarized in preparation for writing the post-trial briefs filed in May and June. The Special Master was scheduled to file his recommended findings and opinion with the U.S. Supreme Court in September 1981. The issues are scheduled to be briefed for the Supreme Court during the Fall of 1981 and oral argument was expected to be set for January or February 1982 with the final decision expected in 1982.

•

Yankton Sioux v. Nelson

On September 9, 1981, the Federal District Court for South Dakota ruled that the Yankton Sioux Tribe is the rightful owner of the bed of Lake Andes located within the original Yankton Sioux Reservation in South Dakota. NARF had filed suit on behalf of the Tribe in 1976 to obtain a court injunction to prevent trespass and loss of crops. In its decision the court stated that when the Yankton Sioux Reservation was established by an 1858 treaty with the United States, the Tribe held aboriginal title to the 400,000 acres set aside for their reservation. The Court concluded that since this title was never extinguished by the United States, the Tribe was still the rightful owner of the lakebed and not the State of South Dakota nor the individual owners of the land adjoining the lake.

This decision is especially significant because it is one of the first court rulings related to the landmark decision of the United States Supreme Court in Montana v. United States issued in March 1981 (See Montana v. U.S. reported on elsewhere). In the Montana case, the Supreme Court held that the State of Montana owned that portion of the bed of the Big Horn River which passes through the Crow Reservation. In ruling that the Montana v. United States case was not applicable to the Lake

Andes case, the South Dakota court stated that whereas the United States had previously extinguished the aboriginal title of the Crow Tribe to the Big Horn River prior to creating the Crow Reservation, the aboriginal title of the Yankton Sioux to the bed of the Lake Andes has never been extinguished. South Dakota has appealed the decision to the Federal Court of Appeals (Yankton Sioux Tribe v. Nelson et al., Civ. No. 74-4066 (D.S.D., filed Sept. 9, 1981), appeal docketed (8th Cir.)).

•

U.S. v. Michigan

In 1979, a landmark decision was handed down in this Great Lakes Indian fishing rights case. In a 140-page opinion the federal district court held that tribal members of the Bay Mills Indian Community, the Sault Ste. Marie Tribe of Chippewa Indians, and the Grand Traverse Band of Ottawa-Chippewa Indians have the right to fish free of state regulation in the areas of Lakes Superior, Michigan and Huron which were ceded in treaties. Filed in 1973 by the United States, the tribes intervened in their own right, with NARF representing the Bay Mills Indian Community and acting as lead counsel throughout the proceedings.

The Indians' basic claim was that in the 1836 Treaty, they reserved the right to fish in their traditional fishing waters. In agreeing with this interpretation, the District Court stated that under the 1836 Treaty, the Indians reserved a right to hunt on the lands ceded, along "...with the other usual privileges of occupancy, until the land is required for settlement." The Court ruled that these reserved rights included the right to fish in all of the ceded waters of the Great Lakes, wherever there are fish. It also ruled that even in the absence of the language in Article Thirteen, the Indians reserved, by implication, the right to fish in the Great Lakes since Indians are held to be the grantors of the land and water. They had original title before the coming of the whiteman. It was this land title they conveyed to the United States - the grantee in the treaty transaction - and anything not explicity granted away by the

NARF served as lead counsel in the historic U.S. v. Michigan fishing rights case in which the treaty-guaranteed fishing rights of three Great Lakes tribes have been upheld by lower federal courts.

Indians was necessarily retained. Thus, the lack of explicit reference to their fishing rights gives rise to the implication that the Indians kept them, not that they gave them up. Given the significance of the fishery to the Indians, the Court said it was highly unlikely, indeed inconceivable, that they would relinquish this valuable right.

Michigan appealed the decision to the Sixth Circuit Court of Appeals, and on July 31, 1981, the appeals court affirmed the lower court's decision. In affirming, the Sixth Circuit ruled that Michigan had only limited authority to regulate Indian treaty fishing - the condition being that it must show to the court that Indian self-regulation was inadequate for conservation purposes. It is expected that Michigan

BEST COPY AVAILABLE

will seek U.S. Supreme Court review. NARF attorneys, in conjunction with tribal and federal attorneys, are now in the process of implementing the district court's decision.

•

Northern Cheyenne v. Adsit

The Northern Cheyenne Tribe of Montana filed suit in federal court in 1975 to protect its right to sufficient water for the present and future water needs of their reservation. As trustee, the United States also filed suit on behalf of the Tribe. Montana's motion to dismiss the case from federal court was opposed by NARF and the United States, who argued that a federal forum is not only required but preferable to state courts which are historically hostile to Indian rights.

It was not until late in 1979 that the federal district court finally handed down a decision when it ruled in Montana's favor and dismissed the case. On appeal, the Northern Cheyenne cases were consolidated with five other Montana tribal water rights cases which were dismissed in the same district court opinion and order. These seven cases involve the water rights of all seven Indian tribes in Montana. Extensive briefing was completed by all parties by September 1980, and oral argument was heard on July 15, 1981, in San Francisco.

In the meantime, the Northern Cheyenne Tribe has been involved in settlement discussions with the Montana Reserved Water Rights Compact Commission. The Commission was established by Montana in 1979 specifically to negotiate water rights compacts with Indian tribes, and NARF is hopeful that some progess may be possible in these discussions. NARF and Tribal officials have met twice with the Compact Commission during the year. There was an agreement to a limited exchange of technical information and on a number of procedural matters. The central focus of the discussions at this time involves the need for a new Tongue River Dam which would resolve safety problems with the present dam and provide additional storage water. The possibilities of increased storage capacity would certainly enhance the possibilities of settlement.

The Tribe has also met with a coalition of state and federal agencies, private organizations and interested individuals concerning the Tongue River Dam Project. At this point, the State of Montana is seeking federal funds for a feasibility study. The Montana legislature has already appropriated $400,000 for a portion of the study and $10 million for construction. The construction money is contingent upon federal participation and the successful negotiation of a compact with the Tribe. All parties are working toward an eventual joint state-federal-tribal project. NARF is now awaiting a decision on the issue of jurisdiction pending in the Ninth Circuit, and settlement discussions will continue.

•

Pamunkey Land Claim

NARF has represented the Pamunkey Tribe of Virginia for several years in a land claim against the Southern Railway. The claim arises out of condemnation proceedings undertaken in 1855 by which the railroad purported to acquire a right-of-way across the Pamunkey Reservation, but without obtaining federal consent or compensating the Tribe. The track has been in profitable use by the railroad since 1894. However, because the federal government never approved the condemnation, title to the land never passed to the railroad; the railroad has simply been trespassing on tribal land for 80 years. After several years of negotiations, the Tribe and the railroad agreed upon terms to settle the dispute. The railroad agreed to pay the Tribe $100,000 for past trespass damages, and in return the Tribe agreed to drop trespass claims against the railroad and to execute a lease agreement for future use of the right-of-way. Under the agreement, the railroad was given a perpetual right-of-way in exchange for annual fair rental payments beginning in 1989. The agreement required ratification by the United States and the State of Virginia. In January 1981, the $100,000, along with interest it had accrued while the legislation was pending, was transferred to the Tribe. Since the railroad settlement, NARF has been

assisting the Tribe with its boundary dispute. Research was done to substantiate the chain of title of an adjacent land owner to the reservation who has been encroaching on tribal land for ten years. The Virginia Attorney General's Office will file the lawsuit in state court on the Tribe's behalf, but NARF will continue to represent the Tribe. The suit will probably be filed by the end of 1981 or early in 1982.

•

U.S. v. Southern Pacific Railroad

This case tests whether longstanding federal laws designed to protect aginst loss of Indian lands and to insure that Indians have control over their lands will be enforced even where the violation involved has existed for almost 100 years. It also tests the good faith of the United States in protecting Indian rights where it has a conflict of interest involving the U.S. Army.

The Southern Pacific Railroad has operated a line across the Walker River Paiute reservation in Nevada since 1881, but never received the required congressional approval. The Tribe had then agreed to permit the railroad to cross its lands on the condition that free passenger and freight services be provided to the Tribe. The Tribe, then as now, subsists on cattle grazed on the reservation lands and on the proceeds from hay farming. Over the years, the rail service to the Indians went from bad to non-existent. Meanwhile, the railroad never obtained the legal right to operate across the reservation. Nevertheless, over the years, the railroad continued to serve non-Indian customers off the reservation, and in 1920 began hauling explosive munitions across the reservation from an Army munitions depot. The Tribe became increasingly frustrated with the knowledge that not only was it receiving absolutely no benefit from the railroad's use of their land, but was also forced to endure the risk of explosions when the trains passed through the main tribal community next to the hospital, school, and tribal government and community buildings.

In 1972, NARF filed suit on behalf of the Tribe and a class of Indian landowners (allottees) against Southern Pacific asserting that the railroad had never acquired a valid right of way, and claimed relief in damages and ejectment. The United States, with some reluctance in view of the railroad's service to the Army munitions depot south of the reservation, filed a companion suit on behalf of the Tribe and the allottees. In 1976, a federal Court of Appeals ruled that the railroad had no valid right of way, nor did it have a license to operate across reservation lands, and, therefore, it was and always had been a trespasser and was liable in damages. The major issues now pending before the district court are questions of damages and ejectment of the railroad from reservation lands. The damages issue has been temporarily postponed until the question of whether the Tribe has the right to eject the railroad has been settled. If the Tribe wins this issue, it will attempt a settlement with the railroad. If the railroad prevails on the ejectment issue, the Secretary of Interior will likely initiate proceedings to decide whether the railroad should be granted a right of way and, if so, on lease payments to the Tribe. There would also be a trial on the damages to the Tribe for past trespass.

•

Statute of Limitations Oversight

A federal statute of limitations (28 U.S.C. 2415) was established in 1966 without specific reference to Indian claims, and set a six-year deadline for claims brought by the United States. The deadline for claims brought by the United States on behalf of Indians and Indian individuals against third parties for monetary damages on claims accruing prior to 1966 was extended in 1972, 1977 and again in 1980. The 1972 extension was enacted at Executive request in relation to the trespass portion of the potential land claim of the Passamaquoddy Tribe. Subsequent extensions (1977 and 1980) were passed when Congress concluded that the Departments of Interior and Justice had failed to adequately research and process claims involving the federal Indian trust obligation.

In the 1980 extension act (P.L. 96-217), Congress set December 31, 1982, as the new deadline for United States filing. Congress also set June 1981 as the deadline for Exective recommendations for legislative solutions to claims it considers inappropriate for litigation. In August of 1981, the Department of Interior informed Congress that it could not meet the June reporting deadline, setting a new time for itself, mid-November, to deliver the report. In mid-December, as Congress reached sine die adjournment, the Administration's report remained unavailable to Congress. Failure to file the June report in timely fashion raises serious questions about Executive ability to meet the 1982 deadline for processing and filing all claims. NARF lead the national Indian effort to achieve passage of the 1977 and 1980 extensions and is actively involved in monitoring federal progress in implementing P.L. 96-217.

•

Pyramid Lake Paiute Water Rights

The Pyramid Lake Paiute Indians of Nevada have depended on the fisheries resources of Pyramid Lake as their primary food source for as long as they can remember. Pyramid Lake lies in the center of the Pyramid Lake Indian Reservation located in northwestern Nevada, about 30 miles north of Reno. The lake is the remnant of a vast inland sea which once covered nearly 9,000 square miles of western Nevada, and is fed by the Truckee River which begins at Lake Tahoe 100 miles to the southwest. However, the once thriving and world famous fisheries has been decimated because of diversions which have caused a decline in the lake's level of 70 feet, and cut off the fishes' access to their truckee River spawning grounds. The cui-ui, which is found only in Pyramid Lake, is classified as an endangered species, while the Lahontan cutthroat trout, the largest trout in the world which grew to more than 60 pounds in the rich waters of Pyramid Lake, is listed as threatened.

These diversions began around the turn of the century and with each new diversion, the very life of the Lake, the fisheries and the Paiute Indians themselves are threatened. Since 1970, NARF has been working in association with other attorneys to stem the diversions and protect the tribal fisheries. Because the major source of water for the lake - the Truckee-Carson river system - is the principal water source in western Nevada, there have been increasing diversions from the system in Nevada and California which has led to ten case challenges by the Tribe or the United States in order to protect tribal water rights. Following are reports on major case developments NARF is now engaged in on behalf of the Tribe.

On June 15, 1981, a federal appeals court issued a landmark decision upholding the Tribe's claim against the Truckee-Carson Irrigation District to sufficient water to main its fishery. The court found that the Secretary of the Interior is not authorized to take Indian water rights for the benefit of reclamation projects. The court also ruled that when the United States represents Indians in litigation, it is obligated to act as a trustee and not to comprise the Indians' interests owing to its conflicting responsibilities.

In Pyramid Lake Paiute Tribe v. California, the Tribe filed a complaint in June 1981, after trying without success to get the United States to file on its behalf. This is an action to establish the Tribe's water rights against the State and other California users, and is particularly important to the Tribe since all major reservoirs which control the flows in the Truckee River are in California.

Truckee-Carson Irrigation District v. Watt is a challenge by the Irrigation District regarding regulations the Interior Secretary was required to issue and enforce which would severely limit the water diversions to the District and allow Pyramid Lake to receive more water. When the Irrigation District did not comply with the regulations, the Secretary notified the District that he was terminating their contract and that the Interior Department would take back physical and operational control over the project. The Irrigation District then sued in the district court in Nevada to prevent the Secretary from terminating its contract and to enjoin the

Secretary from enforcing the regulations. Trial was concluded in August 1981 and a decision is expected in the Spring of 1982.

United States v. Alpine Land and Reservoir Co. is the oldest current case in the federal courts. It was brought in 1925 by the United States to adjudicate water rights in the Carson River in California and Nevada. The Pyramid Lake Tribe has a vital stake in the outcome of the case because it will determine how much Truckee River water the reclamation project will be able to divert away from Pyramid Lake. The Tribe tried unsuccessfully to intervene in the case in 1968. In addition to its specific importance to the Pyramid Lake Tribe, the case raises legal issues regarding the determination of the quantification of water rights for agricultural purposes that affect most western tribes. The district court rendered a decision in 1980, which was unfavorable from the Tribe's standpoint. Considerable political pressure was brought on the Interior and Justice Departments to prevent them from appealing the case, with NARF attorneys trying to convince government officials of the critical importance of appealing the case. Ultimately, the United States decided to pursue an appeal. NARF attorneys will be preparing and filing on amicus curiae brief for the Tribe in support of the government's position (United States v. Alpine Land and Reservoir Co., Nos. 81-4084, 81-4116, U.S. Court of Appeals for the Ninth Circuit).

Pyramid Lake Paiute Tribe of Indians v. Sierra Pacific Power Co. concerns the jurisdiction of the Federal Energy Regulatory Commission (FERC) to license Sierra Pacific's four hydroelectric power plants on the Truckee River in Nevada. The Tribe's position is that the plants are being operated in a manner detrimental to the Truckee River and Pyramid Lake fisheries. In 1979, FERC held that the power plants are subject to FERC jurisdiction because the Truckee River is a navigable stream. The Sierra Pacific Power Company appealed to the Court of Appeals and the case has now been fully briefed. In the meantime, Congress passed a law authorizing exemptions from FERC licensing for certain small hydroelectric plants, and Sierra Pacific has filed for such exemptions. The Tribe has responded in opposition, and a FERC decision on the exemption applications is expected at anytime.

•

Mission Indian Water Rights

NARF represents the Rincon, LaJolla, Pauma and Pala Mission Indian Bands and a private firm represents the San Pascual Band in two cases to secure and protect the Bands' water rights in southern California. Because virtually the entire flow of the San Luis Rey River has been diverted away from the reservations to the communities of Escondido and Vista, the once-thriving agricultural economies on the reservations have been decimated and the Indian people have been forced to move away from their reservations to find work. Indian lands lie barren while adjacent non-Indian lands have valuable commercial citrus and avacado groves. Should the Bands prevail in the following cases, the economies of their reservations could be dramatically improved.

In proceedings before the Federal Energy Regulatory Commission, the Bands are opposing the Escondido Mutual Water Company's application for renewal of its license for facilities which divert the flow the San Luis Rey River from their reservations. The Bands also claim that the original license has been violated by the water company, and, supported by the Secretary of the Interior, are seeking a non-power license that would enable them to take over the facilities. FERC issued its decision in 1979, agreeing with the Bands that the water company had violated the terms of its license and ruled that the company was liable for damages. Although it granted a new license to the water company it was subject to conditions that are much more favorable to the Bands. In particular, the water company is required to deliver water to three of the reservations. All parties are appealing the Commission's decision to the Court of Appeals (Escondido Mutual Water Company, Project No. 176, Federal Energy Regulatory Commission).

Rincon Band, et al. v. Escondido Mutual Water Company is a suit by the Bands to

The building of Henshaw Dam, located above five Indian reservations in southern California on the San Luis Rey River, has resulted in considerable loss of water to the Mission Indian Bands.

declare certain water rights contracts invalid or, in the alternative, to determine the meaning of the contracts. The contracts were approved by the Secretary of the Interior and permit two water companies to divert the waters of the San Luis Rey River away from the reservations. The principal issues in the case involve the validity of the contracts, whether the Secretary is authorized to give away Indian water rights, and the proper theory of damages for deprivation of the Bands' water rights. In 1979 and 1980 the U.S. District Court issued rulings stating that: (1) the water rights contracts are void insofar as they limit or convey Indian lands and water rights; (2) the certain canal rights-of-way across Indian lands had not been validly acquired; and, (3) the water companies were liable for trespass damages. A trial will be required for the remaining issues which will probably be held in 1982.

There has also been considerable effort to achieve a negotiated settlement of the case. Senator Cranston introduced a settlement bill in the Congress and hearings were held in 1980. Further settlement negotiations were held under the auspices of a magistrate appointed by the District Court judge. However, prospects for a settlement appear to be dimming (Rincon Band of Mission Indians v. Escondido Mutual Water Company, Civ. Nos. 69-217-S, 72-276-S and 72-271-S, U.S.D.C. Southern District California).

Ute Water Rights

The two Ute tribes of southwestern Colorado are involved in actions to protect their water rights in streams in Colorado and New Mexico. NARF represents the Ute Mountain Ute Tribe in New Mexico v. United States, where the initial issue is whether the New Mexico state court has jurisdiction to determine the water rights of the Ute Mountain Ute, Navajo and Jicarilla Apache tribes. Also at issue is the amount of water the tribes are entitled to receive. The Colorado cases involve water applications filed by the United States on behalf of the two Ute tribes and on its own behalf. These cases were an outgrowth of the Supreme Court's 1976 decision in Colorado Water Conservancy District v. U.S., also known as the Akin case, in which the Court decided that the State of Colorado had jurisdiction to adjudicate federal water rights, as well as Indian water rights. During the last three years, major activity consisted of studies of the water resources and needs of the Ute tribes. It is possible that if Congress appropriates funds for reclamation projects, it could lead to a negotiated settlement of the suits.

•

Muckleshoot Water Rights and Fisheries

This case seeks to establish the water rights of the Muckleshoot in the White River in western Washington State. The tribal suit asks for a decree declaring that the Tribe is entitled to sufficient water from the river to fulfill the needs of the reservation. In 1911, Puget Sound Power and Light Company completed an hydroelectric project on the White River above the reservation. The project diverts substantially all of the river's flow away from the reservation and returns it to the river below the reservation. Because the river is now essentially dry where it passes through the reservation, the Tribe's treaty-secured, on-reservation fisheries have been effectively destroyed. Filed in 1972, the case was postponed until 1981 pending decisions in related cases. The Tribe has now asked that the case go forward. An amended complaint was filed and NARF attorneys are now preparing a motion for summary judgment.

BEST COPY AVAILABLE

Southern Pacific R. R. v. Andrus

In 1976, a federal appeals court held that the Southern Pacific Railroad was in trespass across the Walker River Paiute Indian Reservation in Nevada. Southern Pacific then submitted an application for a right of way to the Secretary of the Interior. When the Secretary declined to process the application, stating that Southern Pacific had failed to obtain tribal consent, the railroad filed suit challenging the decision of the Secretary in federal district court. The central issue is whether tribal consent is required by federal law before a railroad can obtain a right of way across tribal lands. In July 1980, the district court held that Southern Pacific could obtain a right of way across tribal lands without tribal consent.

The court's decision ignores long-standing interpretations to the contrary by the Interior Department and present federal policy encouraging maximum trial control over their lands. The decision also resurrects an act passed in 1899 which the Tribe contends has been amended to now require tribal consent to a right of way. In the Spring of 1981, NARF and the Interior Department filed briefs on appeal on behalf of the Tribe. Oral argument was expected to be held in the Fall of 1981.

•

Fort McDowell v. Salt River Project

This is an action filed by NARF in 1979 on behalf of the Ft. McDowell Indian Community in Arizona to quantify the Tribe's reserved water rights. The Tribe also seeks damages for past infringement of its water rights by non-Indian users. On January 18, 1980, the District Court dismissed the complaint on jurisdictional grounds. In March, NARF filed an appeal to the Ninth Circuit and briefed the appeal in the Summer of 1980. On July 15, 1981, oral argument was held before Ninth Circuit on the critical issue of whether this water rights case, along with several other similar cases which had also been dismissed by federal district courts, should be tried in federal or state courts. A decision is expected from the Ninth Circuit at any time.

Rosebud Sioux Water Contracts

This case arose out of a contract between the Rosebud Sioux Tribe and an engineering firm. Over a three-year period, the Tribe paid a substantial amount to the firm under a contract to study the Tribe's water resources, but did not receive what it believed it contracted for. The Tribe and the firm agreed to cancel the contract. However, the firm claimed the Tribe owed additional money on the contract, and the Tribe refused to pay any additional money until the firm showed the Tribe the results of its studies. In March 1981, the firm sued the corporate body of the Tribe. NARF moved to dismiss the firm's complaint, and the Court accepted NARF's position and dismissed the complaint on September 30, 1981 (Benjamin v. Rosebud Sioux Tribe, No. 81-0-92).

•

Crow Section Two

NARF has been representing the Crow Tribe of Montana in efforts to enforce Section 2 of the 1920 Crow Allotment Act, which limits the amount of land which non-Indians can own on the reservation and provides that land sales from Indians to non-Indians who hold more than the statutory amount shall be void. The purpose of Section 2 is to protect the integrity of the Crow Reservation as a homeland for the Indians. The Statute has never been vigorously enforced by the government, and because the Tribe has lost much of its reservation area, this matter remains a high priority of the Crow Tribe. It is probable that only the United States can bring suit to enforce Section 2, and NARF has been working for over six years to get the case filed. However, due to the complex nature of the case and potential political ramifications, the case has not yet been filed. Finally, in December of 1980, the Solicitor approved the filing of the suit, but unfortunately, the case was not filed by the Justice Department before the change in Administrations. There are indications that the new people in both Justice and Interior will seek to again review the case independently, which means that NARF will have to again persuade both departments on filing the case.

Wisconsin v. Baker

In 1978, trial was held in U.S. District Court in this suit filed by Wisconsin to prevent the Lac Courte Oreilles Tribe from regulating non-Indian fishing in the navigable waters of the Lac Courte Oreilles Reservation. At trial, the State attempted to prove that when the reservation was established, the United States and the Tribe did not intend that the reservation was to include adjacent navigable bodies of water. Conversely, the Tribe presented evidence to show that inclusion of the waters was consistent with the Chippewa way of life; was embodied in the Treaty of 1854 which established the reservation; and that navigable bodies of water within the reservation and on its exterior boundary were understood to be included. In July 1981, following the U.S. Supreme Court's decision in U.S. v. Montana, the State filed a motion with the District Court asking for an expidited decision in favor of Wisconsin. NARF filed a supplemental post-trial brief distinguishing the claims of the Lac Courte Oreilles from the issues decided against the Crow Tribe in the Montana case. The case was pending at the end of September (Wisconsin v. Baker, W.D. Wisc., No. 76-C-359).

•

United States v. Adair

In 1979, the U.S. District Court in Oregon confirmed the right of the Klamath Tribe to sufficient water from the Williamson River as needed to protect the Tribe's hunting and fishing resources. The court also ruled that the Tribe's priority date for this water right dates from time immemorial. The Court issued its final judgment in April 1980, and the defendants filed notices of appeal. The Tribe and the United States also filed notice of cross-appeal on one issue - the right of non-Indian purchasers of allotments to claim reserved water rights as successors to Indians. In 1981, the appeal of the District Court's decision in favor of the Tribe was fully briefed to the Court of Appeals in San Francisco. Oral argument is now scheduled for November 1981 in Portland.

Orme Dam

The Ft. McDowell Mohave-Apache Indian Community straddles the Verde River in central Arizona. Their reservation is threatened with flooding by plans to construct Orme Dam on the Verde as a flood control measure to protect the downstream city of Phoenix. Federal studies, which are exploring alternate sites for a flood control project, have been underway and hopefully will result in the selection of an off-reservation site. NARF has been assisting the Tribe in attempting to persuade the Interior Department to select one of the alternate sites, which would not result in flooding the reservation but still provide flood control. Over the last few years there were persistent efforts in Congress by supporters of Orme Dam. NARF worked against these efforts, arguing that any action should be delayed until studies for alternative sites are completed. So far the authorization bill for Orme Dam has not passed. NARF is working with the Friends Committee on National Legislation and several environmental organizations on this matter.

•

Cheyenne-Arapaho Oil Lease Dispute

In May 1981, NARF was asked to intercede on behalf of the Cheyenne-Arapaho Tribes of Oklahoma in a dispute involving the automatic renewal of tribal oil and gas leases negotiated in 1976 due to the involuntary communization by the lands covered by their leases. Approval for the communization agreement, which was required under federal law, was given by the Anadarko Office of the BIA two days before the leases were to expire. If the leases had expired, presumably they would have been renegotiated and the tribes would have received substantial bonuses. However, under the automatic renewal provision the tribes are trapped under the terms of the old leases at a price for their oil and gas considerably under that of the private market. NARF filed an administrative appeal with the BIA challenging the validity of the communization agreements without tribal approval and asserting that the BIA breached its trust responsibility in approving the commercially unreasonable agreements.

Sioux Water Rights

In March 1980, the State of South Dakota filed a major water rights suit in State Court to adjudicate all water rights west of the Missouri River. The water rights of seven Sioux tribes are involved, and it is anticipated that as many as 60,000 defendants will eventually be included in the action. The pending issue in the case is whether the case will be tried in state or federal court. Only after this is settled will the nature and extent of the tribes' water rights and the water rights of other federal interests be argued. NARF represents the Rosebud Sioux Tribe. The United States is attempting to transfer the case to federal court, but the State has filed a motion to remand the case back to the State court. NARF attorneys assisted in the briefing of this forum issue by the United States and several of the tribes, and also filed a brief on behalf of the Rosebud Tribe in support of the retention of federal court jurisdiction. Since the parties were unable to come to an agreement on whether the case should be tried in federal or state court, oral argument on the court forum issues was scheduled for October 1981 (South Dakota v. Rippling Water Ranch, Inc., et al., CV-80-3031, D.S.D.).

•

Summit Lake Paiute Water Rights

The Summit Lake Reservation is located in northwest Nevada at an elevation of more than 6,000 feet and contains slightly over 10,000 acres. Within the boundaries of the reservation lies Summit Lake, the last naturally occurring habitat of the Lahontan cutthroat trout, and designated as threatened under the Endangered Species Act. These large trout migrate up small creeks flowing into the Lake from the east to spawn. The headwaters of the creeks are on public domain land and, before reaching the reservation, flow through lands owned by private parties above the reservation. Because it appeared that imminent off-reservation activity would threaten the stream water, NARF and local counsel have begun to investigate the Tribe's water resources and needs in preparation for any legal action.

Nebraska Pub. Power Dist. v. 100.95 Acres

NARF is assisting local legal services in representing the Winnebago Tribe of Nebraska and certain tribal members in defending against an action filed by the Nebraska Public Power District (NPPD) to condemn a right of way for power transmission lines across the Winnebago Reservation. The case raises the issue of whether Congress has empowered NPPD to condemn tribal and individual trust lands. Since the laws upon which NPPD relies are laws generally applicable to all Indian country, the decision in this case will affect the rights of Indian people nationally in preventing unwanted and illegal intrusions upon their lands. Counsel for both parties agreed that the legal defenses raised in behalf of the Indians would be ruled on by the District Court before a trial on damages. The court adopted this pre-trial agreement and briefing on these issues has been completed. Once the district court issues its decision on the NPPD's right to condemn, an appeal is expected.

•

Southern Ute Reservation Boundary

For many years there has been uncertainty over the legal boundaries of the Southern Ute Indian Reservation in southwestern Colorado. The Tribe now wishes to resolve the problems this generates and is considering various approaches. NARF attorneys have consulted with the tribal council and attorneys, and a decision on what approach to take is expected late in 1981. NARF will continue to assist if the Tribe elects to pursue a resolution to the issue.

•

Kimball v. Callahan

NARF filed suit in Oregon federal court in 1973 on behalf of several individual Klamath Indians claiming that notwithstanding the termination of the Tribe by Congress and the sale of the Tribe's reservation, tribal members retained their treaty rights to hunt and fish within the boundaries of the former reservation. In

1975, the Ninth Circuit Court of Appeals reversed the District Court and agreed with the Tribe's position (Kimball I). The case was remanded to the District Court and, in 1980, the Ninth Circuit, affirming the District Court's order, held that the Klamath Tribe is still a sovereign Indian tribe possessing treaty rights with the authority to govern its members in the exercise of those rights (Kimball II). The case was remanded to the District Court a third time for a determination of the conditions under which the State might regulate Indian hunting and fishing for conservation purposes. Negotiations began in 1980 between the State and the Tribe, represented by NARF, in an effort to avoid another trial. In May of 1981, a settlement was finally approved by the United States which provides for tribal regulation of its members and State regulation of non-Indian sportsmen.

•

Oneida Land Claims

NARF is presently involved in three Oneida Indian land claims cases in the State of New York. The Oneidas, once a unified tribe, have been separated into the Oneida Nation of New York, the Oneida Tribe of Wisconsin and the Oneida of the Thames Band Council in Ontario, Canada. NARF represents the Wisconsin and Thames Band Oneidas, while the New York Oneidas are represented by separate counsel.

Two of the Oneida land claims involve approximately 250,000 acres lost in a series of 25 treaties entered into between the Oneidas and the State of New York after passage of the 1790 Indian Non-Intercourse Act and in violation thereof since only one of the treaties was ever approved by the United States. The first Post-1790 case is a "test case" filed in 1970 and involves only one of the treaties for 1,700 acres. The question of federal jurisdiction to hear the Oneida claims occupied the courts until 1974 when the U.S. Supreme Court ruled in favor of federal jurisdiction (Oneida Indian Nation of New York v. County of Oneida, 414 U.S. 661). In 1977, the federal district court held the counties liable, and in September 1981, trial was held to determine the amount of damages the counties were liable for to the Oneidas. As of September 30, 1981, the court was considering a second motion by the defendants to dismiss the suit (Oneida Nation of New York, et al. v. Oneida and Madison Counties, No. 70-CV-35, N.D.N.Y.).

The second Post-1790 claim was filed in 1974, and is for approximately 250,000 acres lost under the 24 New York-Oneida treaties. This case is being held in abeyance pending a decision in the the test case reported above (Oneida Nation of New York, et al. v. Oneida and Madison Counties, No. 74-CV-187, N.D.N.Y.).

The third case is a claim for some 5.5 million acres lost to New York State prior to passage of 1790 Indian Non-Intercourse Act. Filed in 1979 against some 60,000 landowners who trace their land titles back to 1785 and 1788 treaties between the Oneidas and New York, the suit claims that transfers of Oneida land under those treaties were in violation of the Articles of Confederation, a proclamation of the Continental Congress and a treaty between the Oneidas and the United States. On July 13, 1981, the federal district court dismissed the suit. In August 1981, an appeal was filed and argument in the appeal will be in the late Spring of 1982 (Oneida Indian Nation of New York, et al. v. New York State, No. 79-CV-798, N.D.N.Y.).

•

South Dakota v. Janis

This case involves the question of whether certain sections of the Cheyenne River Sioux Reservation in South Dakota are still part of the reservation or whether, when Congress opened certain areas to non-Indian settlement, it was the intention of Congress to remove those sections from reservation status. Among other consequences, the outcome will determine whether jurisdiction in the disputed areas resides in the State or in the Tribe and the federal government. NARF's involvement in this case consisted of reviewing the case and drafting a legal opinion commenting on the brief submitted on behalf of the Tribe.

Kaw Land Acquisition

NARF represents the Kaw Tribe of Oklahoma in their effort to secure a 215.5-acre tract of land that has been declared surplus land by the Corps of Engineers. The Tribe needs this land to build 50 houses that have been allocated to them by HUD. However, the BIA has refused to certify to GSA that GSA can transfer the land to the Tribe free of charge and GSA will not negotiate the sale of the land to the Tribe. Negotiations have been going on to get the BIA to make the certification, or failing that, to get GSA to negotiate the sale to the Tribe. Documents have been submitted to both agencies and NARF is now awaiting their decision. If they do not take the recommended action, litigation on behalf of the Kaw Tribe is contemplated.

•

Muckleshoot Tribe: FERC Proceeding

In 1911, a hydroelectric project was completed on the White River which flows through the middle of the Muckleshoot Reservation in Washington. The Project diverted substantially all of the River's flow away from the reservation and into a series of flumes and canals and to the power plant. The water was returned to the river below the reservation, and consequently, the Tribe's treaty-secured, on-reservation fishing rights were effectively destroyed.

Over a period spanning several decades, Puget Sound Power & Light Company has consistently denied that the federal government (through the Federal Power Commission, now the Federal Energy Regulatory Commission, FERC) has jurisdiction over its project based on its contention that the White River is not a navigable stream. In the early 1970s, the Federal Power Commission held proceedings to determine the navigability of the White River, and the Muckleshoot Tribe, represented by NARF, intervened in those proceedings. An Administrative Law Judge (ALJ) found the stream not to be navigable, but, based primarily on new evidence submitted by the Tribe, the Commission reversed the ALJ and found the stream to be navigable and, therefore, under its jurisdiction. The Company then appealed the decision to the Ninth Circuit Court of Appeals.

On May 4, 1981, the Ninth Circuit ruled in favor of the federal government (and the Tribe) and found the project to be under the jurisdiction of the federal government. The Tribe will now participate in the relicensing proceedings and attempt to convince FERC to place conditions in Puget Power's license which will ensure a sufficient stream flow to protect tribal fishing and other treaty rights. (Puget Sound Power & Light v. FERC, No. 78-3211 (9th Cir. May 4, 1981)).

•

LCO Project No. 108

In 1920, the Federal Power Commission (FPC) licensed the predecessor of Northern States Power Company (NSP) to construct a dam and storage reservoir on the Chippewa River which flowed through the Lac Courte Oreilles Indian Reservation in Wisconsin. The reservoir is located partially on Indian lands and has completely destroyed the Tribe's treaty-protected wild rice grounds. In 1970, NSP's license expired and it applied for a new license under the Federal Power Act. The Tribe, represented by NARF, intervened in the licensing proceedings and sought to convince the FPC to recommend to Congress that the project be recaptured under provisions of the Federal Power Act and turned over to the Secretarys of Interior and Agriculture to be managed for the benefit of the Tribe and the public.

The Tribe, the BIA and the Forest Service developed a joint management plan which would have stabilized the level of the reservoir and permitted the reintroduction of wild rice, as well as providing for continued use by the public of the flowage as a recreation area. In 1977, the Administrative Law Judge (ALJ) ruled against the Tribe and the Secretarys, and recommended the issuance of new license and continued use of the project for power purposes. The Tribe filed briefs on exceptions before the Commission, but no decision was ever reached by the

Commission. The Federal Energy Regulatory Commission (previously FPC) appointed a Settlement Judge who convened a settlement conference of all parties. At that meeting it was agreed that settlement negotiations should be attempted and a second conference was held in January 1981. Negotiations continued during the year and will continue well into 1982.

•

Swinomish Trespass Cases

These are consolidated cases in which the Swinomish Tribe of Washington claims that railroad and pipeline companies are in trespass over tribal lands. The issue raised by the cases is whether the reservation boundaries included the tideland areas when it was established by treaty and Executive Order. This issue became more complicated after the U.S. Supreme Court's recent decision in Montana v. United States. During 1981, the Tribe's expert witnesses completed studies on the exact location of the railroad and pipeline and the physical conditions of the areas in dispute. Trial was held in Seattle on April 6-8, 1981 and the Court scheduled closing argument in the case for October 30, 1981 (Trans Mountain v. Swinomish Tribal Community, No. C76-550V; United States v. Trans Mountain, No. C77-117V; Swinomish Tribal Community v. Burlington Northern, C78-429V; United States v. Burlington Northern, No. C80-386V (CONSOLIDATED CASES), W.D. Wash.)

•

Papago-Vekol Valley

In 1978, Congress passed the "Ak-Chin Water Supply Act" which directed the Secretary of the Interior to obtain a substitute water supply for Arizona's Ak-Chin Indian Reservation. The Interior Department has now identified three alternative areas from which that water supply could be obtained. However, obtaining water from two of these areas would adversely affect the interests of the Papago Indian Tribe, NARF's client. In August 1981, the Papago Tribe adopted a resolution, prepared with advice from NARF attorneys, which called for the BIA to meet its obligations to the Ak-Chin Reservation without infringing on the water rights and interests of the Papago Tribe. No decision was reached by the end of September by the BIA or the Secretary of the Interior. If the Secretary decides to proceed with an alternative that is opposed by the Papago Tribe, the Tribe will probably bring suit to prevent impairment of its rights.

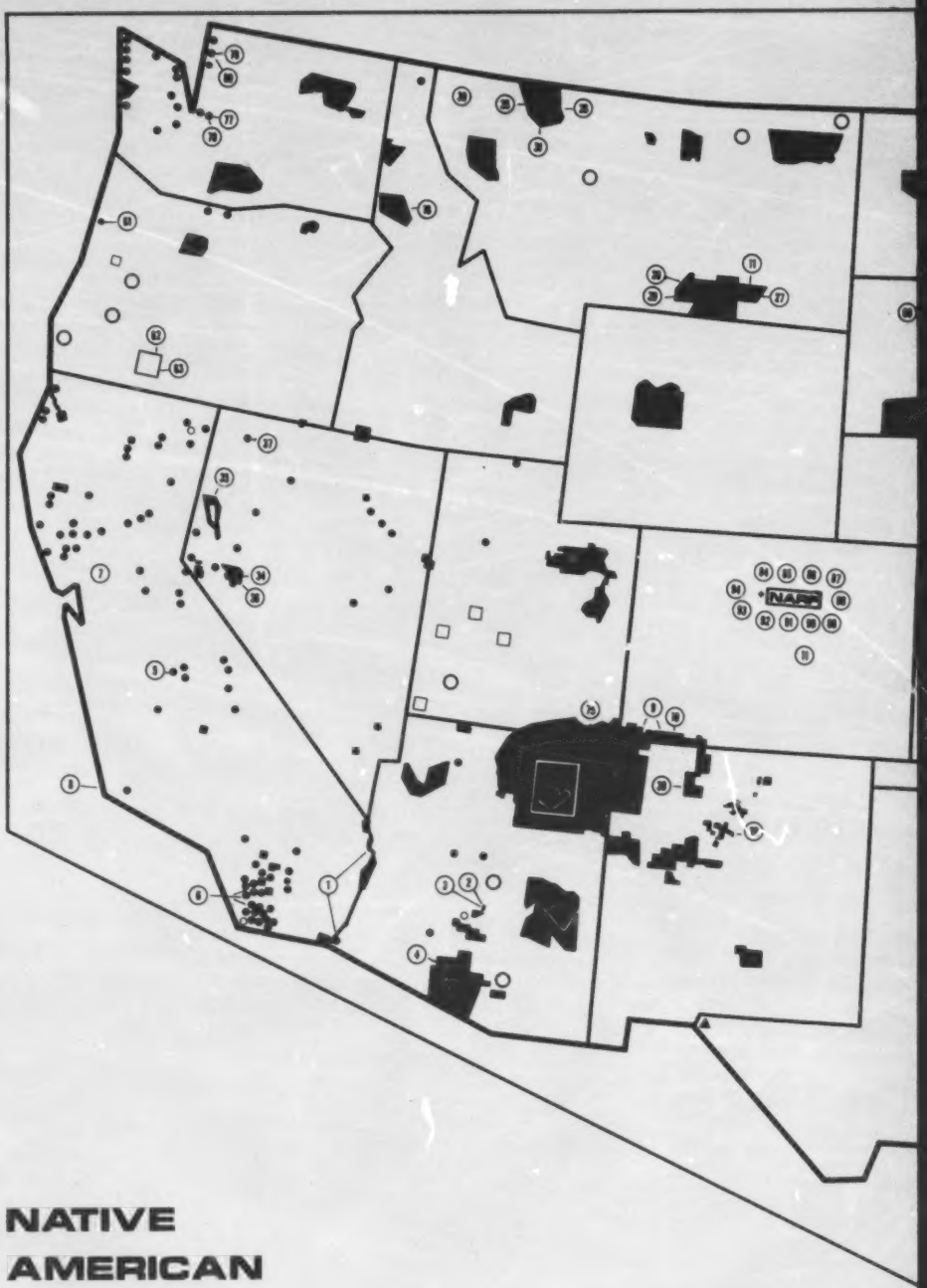
•

Cheyenne and Arapaho Tribes of Oklahoma v. Oklahoma

NARF filed this case on behalf of the Cheyenne and Arapahoe Tribes of Oklahoma in 1975, seeking a ruling that members of the Tribes have the right to hunt and fish within the boundaries of their original reservation and that the Tribes have the right to regulate hunting and fishing of tribal members. In 1978, the U.S. District Court for the Western District of Oklahoma held that the trust lands within the original reservation boundaries were "Indian country," and, as such, Oklahoma had no authority to regulate within those areas except through application of the Assimilated Crimes Act. The Court also held, however, that an 1890 allotment agreement with the Tribes disestablished the reservation and the Tribes no longer could regulate on non-trust (primarily ceded) lands within their former reservation.

NARF appealed the District Court's ruling on the issues of the Tribes' authority over ceded lands and the relevency of the Assimilated Crimes Act, an act which incorporates state law as federal law if there is no existing applicable federal law. In March 1980, the Tenth Circuit Court of Apeals essentially upheld the Tribes' position on all issues. The Court agreed that the Tribes have authority to regulate Indian hunting and fishing on all tribal and individual trust lands, and on ceded lands formerly within the Cheyenne-Arapaho Reservation The case was remanded to the District Court for further proceedings. A proposed agreement with the State has now been drafted for the Tribes and sent to them for comments. NARF will continue to work with the State and the

1. Arizona v. Cal. (p.27)
2. Ft. McDowell v. SRP (p.34)
3. Orme Dam (p.35)
4. Papago-Vekol Valley (p.39)
5. Table Bluff Rancheria (p.23)
6. Mission Water Rights (p.32)
7. D-Q University (p.45)
8. Point Conception (p.48)
9. Ute Water Rights (p.33)
10. Southern Ute (p.36)
11. In re Davis (p.45)
12. Western Pequot (p.20)
13. Schaghticoke Claim (p.25)
14. Mohegan v. Conn. (p.26)
15. Askew v. Seminole (p.26)
16. Brooks v. Nez Perce Cty. (p.42)
17. Ross v. Scurr (p.46)
18. Marshno v. McManus (p.47)
19. Tunica-Biloxi (p.19)
20. Mashpee Recognition (p.19)
21. Gay Head Wampanoag (p.23)
22. Sault Ste. Marie (p.24)
23. U.S. v. Michigan (p.28)
24. Keweenaw Bay (p.50)
25. Kennerly v. Blackfeet (p.22)
26. Blackfeet v. Groff (p.26)
27. No. Cheyenne v. Adsit (p.29)
28. Crow Section Two (p.34)
29. Montana v. U.S. (p.42)
30. Kootenai Falls (p.44)
31. Blackfeet Comm. Coll. (p.46)
32. NPPD v. 100.95 Acres (p.36)
33. White Eagle v. Storie (p.47)
34. U.S. v. So. Pac. (p.30)
35. Pyramid Lake Water Rights (p.31)
36. So. Pac. v. Andrus (p.34)
37. Summit Lake Water (p.36)
38. Merrion v. Jicarilla (p.26)
39. Baca Geothermal (p.44)
40. Stockbridge-Munsee (p.25)
41. Oneida Claims (p.37)
42. Eastern Cherokee/Educ. (p.45)
43. Maynor v. Morton (p.50)
44. Davis v. Mueller (p.24)
45. Tax Comm. v. Mays (p.20)
46. Cheyenne-Arapaho Workshop (p.22)
47. Pawnee Food Co-op (p.22)
48. Logan v. Andrus (p.25)
49. Cheyenne-Arapaho Lease (p.35)
50. Kaw Land Acquisition (p.38)
51. Cheyenne-Arapaho v. Okla. (p.39)
52. Yellowfish v. Stillwater (p.42)
53. Wetumka Impact Aid (p.43)
54. Pawnee Indian Hospital (p.44)
55. Cheyenne-Arapaho Airport (p.45)
56. Creek Cemetary (p.47)
57. Sand Creek Massacre (p.49)
58. Seminole Food Distribution (p.49)
59. In re Knight (p.50)
60. Seminole Jurisdiction (p.50)
61. Siletz Reservation (p.24)
62. U.S. v. Adair (p.35)
63. Kimball v. Callahan (p.36)
64. Catawba Land Claim (p.20)
65. Yankton v. Nelson (p.27)
66. Rosebud Water Contracts (p.34)
67. Sioux Water Rights (p.36)
68. So. Dak. v. Janis (p.37)
69. Sisseton-Wahpeton/Educ. (p.47)
70. So. Dak. Trust Lands (p.51)
71. Wright v. Schweiker (p.51)
72. Rosebud Fed. Audit (p.51)
73. Alabama-Coushatta (p.19)
74. Traditional Kickapoo (p.21)
75. Badoni v. Higginson (p.48)
76. Pamunkey Lands (p.29)
77. Muckleshoot Water Rights (p.33)
78. Muckleshoot: FERC (p.38)
79. Swinomish Trespass Cases (p.39)
80. Burlington No. v. Andrus (p.42)
81. Menominee Const. Workshop (p.21)
82. Wisconsin v. Baker (p.35)
83. LCO Project No. 100 (p.38)
84. Tribal Revenue Bonds (p.22)
85. Tribal Tax Status Act (p.23)
86. Statute of Limitations (p.30)
87. NACIE (p.44)
88. Religious Freedom (p.46)
89. AIHEC (p.48)
90. Federal Appropriations (p.49)
91. Nat'l Indian Law Lib. (p.52)
92. Indian Law Support Ctr. (p.53)
93. Cohen Revision (p.55)
94. Conference Activities (p.55)



NATIVE AMERICAN RIGHTS FUND • Major Activities, 1981

BEST COPY AVAILABLE

INDIAN LANDS
Drafted from a map compiled by the Bureau of Indian Affairs in cooperation with the Geological Survey
Legend
Federal Indian Reservation
Former Reservations in Oklahoma
State Reservations
Indian Groups Without Trust Land
Federally Terminated Tribes and Groups

BEST COPY AVAILABLE

Tribes to finalize the agreement and present it to the court for approval. (Cheyenne and Arapaho Tribes of Oklahoma v. Oklahoma, 618 F.2d 665 (10th Cir. 1980)).

•

Montana v. United States

In March 1981, the U.S. Supreme Court held that the State of Montana, rather than the Crow Tribe, owned the bed and banks of the Big Horn River, and that, therefore, the Tribe lacked power to regulate non-Indian hunting and fishing on such lands within their reservation. NARF provided legal assistance on an amicus curiae brief filed by several tribes to the U.S. Supreme Court. NARF also analyzed the Court's opinion; wrote draft petitions for a rehearing; supplied them to the government and trial attorneys; and helped to ogranize Indian tribes nationally to support the Crow Tribe. A petition for rehearing was filed by the Crow Tribe and NARF filed a brief on behalf of several tribes supporting the Tribe's petition, but it was denied by the Supreme Court. The Supreme Court's decision is devastating to Indian rights, for it marks an unfortunate departure from the traditional court philosophy in interpreting Indian treaties.

•

Burlington Northern v. Andrus

This case was initiated as a result of the tribal suit in Swinomish Tribal Community v. Burlington Northern reported elsewhere. In this action, the Burlington Northern Railroad seeks to retain a right of way over the tidelands of the Swinomish Tribal Community contending that because of an 1899 railroad right-of-way act, tribal consent to the grant of a right of way over tribal lands is not needed. In 1980, NARF, on behalf of the Tribe, moved to intervene in this action and the motion was granted. Both the United States and the railroad then moved for summary judgment, in which NARF wrote a memorandum in support of the United States' motion. Oral argument was heard on these cross motions in July 1980. The Court, however, postponed any action pending the outcome of a decision on a similar case now before the Court of Appeals for the Ninth Circuit.

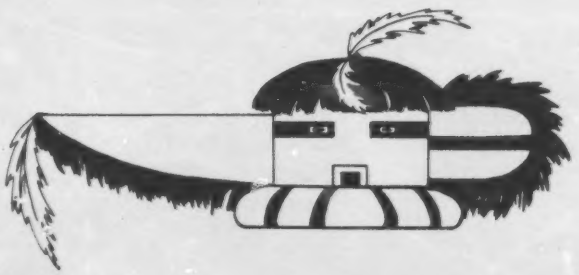
Yellowfish v. City of Stillwater

NARF is representing several individual Indian allottees in their efforts to prevent an illegal condemnation of their trust lands located near the City of Stillwater, Oklahoma. The Indians assert that the City, in planning to construct a pipeline from a reservoir to the City which would cross Indian trust lands, is not proceeding under the proper federal condemnation law. The Western District Court for Oklahoma denied the Indians' motion to dismiss the City's condemnation suit. The Court of Appeals in Denver has accepted the appeal and oral argument was held on October 20th (Yellowfish v. City of Stillwater).

•

Brooks v. Nez Perce County

This case involves Indian land allotments at Lapwai, Idaho, within the boundaries of the Nez Perce Reservation taken many years ago for non-payment of property taxes, but illegally because it was non-taxable Indian trust land. The case was filed in 1972, and, until recently, the main issue has been the jurisdiction of the federal court to hear the case. The federal district court dismissed the original action in 1974, and on appeal it was reversed and sent back to the District Court in 1977. Jurisdiction remained at issue until the United States decided that it would enter the case on behalf of the Indian plaintiffs. In 1979, the court granted partial summary judgment to the Indian plaintiffs, ordering return of the land to the United States in trust for them. In 1980, the court ruled that the Indian plaintiffs could not recover damages from the county for wrongfully taking the land. The plaintiffs, and the United States as trustee, appealed this ruling. Briefs were filed in 1981 and the case was awaiting oral argument as of September 1981.



Promotion of Human Rights

Wetumka Impact Aid

Under the 1978 Education Amendments Act (Title XI of Pub. L. 95-561), public school districts receiving federal funds for their Indian student population are required to establish policies which actively solicit extensive and meaningful Indian parental and tribal input into all facets of their education programs. Additionally, the new law established a complaint procedure which Indians can resort to if they feel that the school is not properly fulfilling its responsibilities. Such was the case at Wetumka, Oklahoma, when the Indian parents and officials of the Creek Nation requested assistance from NARF. NARF discovered that Indian students at Wetumka were testing out at approximately 1-1/2 grade levels below their white counterparts, and that the dropout rate for Indian students is far higher than their white counterparts. The school district, with no Indian representation on the school board, had made no effort to address these problems, and, in fact, maintained that there was no problem at all. It was precisely this attitude and this type of situation which Congress meant to correct in enacting Title XI.

When the school district refused to settle the issue through informal discussions, it was necessary to hold administrative hearings. The hearing examiner's recommendations essentially were those revisions which NARF recommended. However, NARF felt that he wrongfully concluded that the district was in "substantial compliance" with the law. Therefore, NARF once again briefed the issues for submittal to the Secretary of Education. The Department of Education issued its final decision on July 29, 1981, upholding the position of the Indian parents and the Creek Nation in all respects. The school district was directed to fully comply with the law by providing specific policies which actively seek and act on meaningful input from the Indian parents and the Tribe.

NARF will be drafting an appropriate policies and procedures document to reflect the wishes of the Indian parents and the Tribe, and the requirements of the decision and the law. NARF will then approach the Oklahoma Department of Education, through the Creek Nation, in an attempt to convince them to vacate the legally inadequate "model" policies and procedures document which they have submitted to all Oklahoma school districts. Hopefully, NARF can convince that Department to substitute the new Wetumka "model" to the Oklahoma schools. The importance of this case is illustrated by the fact that the Secretary's determination could affect all public school districts in Oklahoma which receive federal funding via the Impact Aid law and perhaps schools outside Oklahoma, practically all of which utilize policies and procedures which are virtually identical to those at Wetumka.

During 1981, NARF continued to provide legal assistance in Indian education under a grant from the Ford Foundation.

BEST COPY AVAILABLE

Pawnee Indian Hospital Closure

The Pawnee Indian Hospital serves six Indian tribes in northcentral Oklahoma. In the Fall of 1980, Congress directed the Indian Health Service to close the hosital's in-patient and emergency room facilities and to institute a contract care medical delivery system. The directive was made without any prior notice or consultation with the tribes affected and was based upon questionable data supplied by the Oklahoma Blue Cross and Blue Shield. The Pawnee Tribe retained NARF to represent it in requesting Congress to reconsider its decision, and also asked NARF to research the possibility of bringing a lawsuit. After conducting a review, NARF concluded that there were no viable legal grounds to successfully challenge Congress in court. NARF's effort, therefore, was spent on representing the Tribe in meetings with the Oklahoma congressional delegation in Washington, D.C., and other Congressmen and Senators, but unfortunately these efforts proved unsuccessful.

•

Kootenai Falls

NARF represents the lower Kootenay Band of Canada and is also providing backup assistance to attorneys representing the Kootenai Band of Idaho and the Confederated Salish and Kootenai Tribes of the Flathead Reservation in a joint effort to protect Kootenai treaty fishing and religious freedom rights threatened by a proposed hydroelectric dam on the Kootenai River in Montana. The effect of such a dam would be to damage the fisheries resources of the Kootenai River and to destroy the principal religious area of the Kootenai Indians. Attorneys are now preparing for the hearing on the licensing application before FERC (In re Application of Northern Lights, FERC Project No. 2752).

•

NACIE

The National Advisory Council on Indian Education (NACIE) was established to provide meaningful Indian input on all matters pertaining to federal Indian education. Recently, certain officials within the new Department of Education, who have a history of unfavorable views toward Indian education, attempted to convince the new Administration that NACIE functions had been abrogated by the act creating the Department of Education (Pub. L. 96-88). More specifically, they contended that NACIE's role in submitting a list of finalists for the Deputy Assistant Secretary of Education, who would oversee Indian education programs, was no longer required. At the request of NACIE, NARF researched and drafted a comprehensive legal opinion which specifically outlined the NACIE role, particularly with respect to its continuing duty with regard to the selection criteria for the Deputy Assistant Secretary for Indian education. The Department of Education soon relented and has followed the NARF opinion guidelines with regard to all functions of the NACIE. NARF also drafted a legal opinion regarding the Indian scholarships issued by the Department of Education.

•

Baca Geothermal Project

In the Spring of 1980 the Department of Energy agreed to fund and enter into a joint venture with Union Oil Company and the Public Service Company of New Mexico to build a geothermal power plant in the Jemez Mountains of New Mexico. The effect of the project would be to destroy a central religious site of the surrounding Pueblo Indians and to reduce the water table necessary for Pueblo survival. NARF was asked to assist the Santa Clara Pueblo in negotiations with the Department of the Interior to obtain funding for legal representation for the Pueblo on conflict-of-interest grounds. NARF's involvement ended when the Pueblo successfully obtained the funds and hired an attorney to bring suit.

D-Q University Land Conveyance Act

D-Q University, established in 1971 near Davis, California, is an accredited two-year college governed by an Indian Board of Trustees and serves Native Americans nationwide. In its 1981 progress report, an accrediting agency characterized D-QU as "a very special institution. It serves a special people. Its history and its programs are unique. It has persisted for a decade in spite of incredible adversity. Its will to live springs from deep in the hearts of a proud people, and its life is strong."

In 1981, legislation was introduced in Congress to alter the status of escrow terms under which the General Services Administration granted D-QU the 643-acre former Army base for its campus. The current terms, which run until 2001, prevents D-QU from mortgaging the land or farming it for profit. Federal agencies also interpret regulations in such a way as to hinder D-QU's development. NARF is assisting D-QU and its attorney to achieve passage of H.R. 3144, to correct development problems, to clarify the land status and to provide for future institutional stability and self-sufficiency.

•

Eastern Cherokee School Closure

The Eastern Cherokee Tribe of the Qualla Boundary Reservation in Cherokee, North Carolina, requested NARF's legal assistance in the Tribe's efforts to prevent the Bureau of Indian Affairs from cutting off funding for their Indian school in Cherokee, which has been in operation since the 1930s. Recently the BIA informed the Tribe that, based upon a 1919 statute, the Bureau would immediately discontinue funding the school because too many of the students were less than one-quarter Cherokee Indian blood. Without the BIA funds, the school faced immediate closure. NARF assisted the Cherokee tribal attorney in compiling a comprehensive legal justification for continued BIA support of the school. The BIA relented to the extent of providing a one-year extension, or waiver, to this BIA requirement. At this point the issue is now more of a political question, rather than a legal one, and it is unlikely that NARF will be further involved.

In re Davis

When El Paso County (Colorado Springs, Colorado) began an action against the parents of an Indian child, alleging he was dependent and neglected, the Northern Cheyenne Tribe was notified of the action pursuant to the Indian Child Welfare Act (ICWA) because the child's mother is a member of the Tribe. The ICWA was passed to give Indian tribes a measure of authority in state juvenile proceedings in which an Indian child is involved. On behalf of the Tribe NARF moved for the Tribe's intervention in the dependency and neglect proceedings, and the court granted the motion. NARF then asked for a transfer of custody of the child to the Tribe's social services program. NARF argued that such a transfer would enable the Tribe to place the child, pending the outcome of the action, with other family members on the Northern Cheyenne Reservation pursuant to the purposes and policies of the ICWA. The court granted the motion and the child has been placed with an aunt and uncle in Lame Deer, Montana.

•

Airport Expansion

NARF represented the Cheyenne-Arapahoe Tribes of Oklahoma in its opposition to the plans of the City of Clinton to expand its airport, insofar as such expansion would adversely affect the operation of the Indian hospital located near the airport and the land use plans of the Tribe. In particular, the expansion was likely to cause increased noise and risk of accidents affecting the services of the Indian hospital. NARF reviewed the City's proposal submitted to the Federal Aviation Administration seeking funds for the expansion, and prepared a statement for the Tribe to be presented at a public hearing. The Tribe's asserts that the City, in preparing its funding proposal, failed to consult with the Indian Health Service, the Bureau of Indian Affairs, and the Tribe itself in order to ascertain whether its proposed expansion might adversely affect their interests. However, due to recent federal funding cuts, it now appears that the proposed expansion will have to be cancelled, or at least postponed for the foreseeable future.

American Indian Religious Freedom Act

The American Indian Religious Freedom Act of 1978 brought Indian religion into the realm of the First Amendment freedom of religion clause for the first time. It recognized that numerous federal laws had been enacted without regard to their affect upon Indian people and their religion. It further recognized that abridgments of Native American religious freedom had resulted from the lack of a clear and consistent policy, and from insensitive regulatory enforcement at the federal level. A federal task force conducted an evaluation of existing problems and solutions. It included representatives of the federal agencies responsible for administering relevant laws to Indian people. At the same time, NARF, in conjunction with the American Indian Law Center, conducted a parallel review of federal statutes, regulations, and policies to determine if any infringed upon the practice of Indian religion. The results of NARF's efforts were turned over to the federal task force and integrated into the final Presidential report to Congress in August of 1979.

The final report listed the problem areas and recommendations for administrative and legislative action to alleviate the problems. Unfortunately, very few of the recommended solutions to the identified problems, both administrative and legislative, have been acted upon by the federal government. NARF has since been involved in attempting to assist on numerous religious freedom violations which have occurred and have been reported to NARF. Additionally, NARF has been involved in attempting to get enacted a Presidential Executive Order designed to actually implement the recommendations listed in the 1979 report to Congress.

•

Blackfeet Community College

The Blackfeet Community College, located in western Montana on the Blackfeet Indian Reservation, achieved Candidate-for-Accreditation status, and is now preparing for review by the Northwestern Accreditation office to be come fully accredited. NARF has assisted in the review of the College's operating documents and advised the college on accreditation matters. In addition, NARF assisted the Tribe in its efforts to allow it to include Canadian Indian students in its enrollment figures when requesting federal funds. The Tribe is one of those that was divided by the international boundary between the United States and Canada. The General Services Administration recently ruled that Blackfeet and Blood tribal members born in Canada and enrolled at the College were not eligible to be counted for federal funding to the College under the Tribally Controlled Community College Assistance Act. At the request of the Community College, NARF drafted a legal opinion stating that those Canadian students are lawful residents under the provisions of the Jay Treaty of 1794, and that they are eligible for funding under the Act. This issue is now pending before the GAO.

•

Ross v. Scurr

In early 1980, Christopher Ross, a Lakotah Sioux Indian inmate of the Iowa State Penitentiary in Fort Madison, filed suit to compel prison officials to allow a sweat lodge at the prison as an essential part of their religious practices. In September, a U.S. District Court denied the request on the grounds that Ross had other opportunities to practice his faith by attending services at the prison's Indian-Chicano Center; that the fire and rocks needed for a sweat lodge were a security risk; and that, therefore, Ross's complaint failed to prove that his constitutional right to freedom of religion had been violated.

Soon after the original suit was dismissed - and at Ross' request - NARF attorneys, along with local attorney Gordon Allen, asked the Court to reopen the case. NARF submitted statements from prison wardens in other states declaring that sweat lodges in their prisons were not a security risk and, in fact, improved discipline. The statements showed that sweat lodges are permitted in prisons in Colorado, Nebraska, New Mexico, California, South Dakota and other states.

NARF attorneys pointed out that prison officials typically fail to understand the vast differences between the tribal

religions of Indians and the Judeo-Christian religions which most people are familiar with, and consequently fail to view a request for a sweat lodge as a valid religious practice. When the Court decided to reverse its original ruling, the State correction officials agreed to an out-of-court settlement on March 13th, which allows the Indian inmates to build a sweat lodge.

•

Marshno v. McManus

Indian inmates at the Kansas State Penitentiary in Lansing, Kansas, filed a law suit requesting a sweat lodge and certain educational programs. At the request of the Indian inmates, NARF entered the law suit, and discussed with prison officials and their attorneys the legal and religious basis for the Indian sweat lodge. These negotiations were successful and prison officials signed a permanent consent decree in 1980 consenting to the construction of the sweat lodge and to the accompanying educational programs. In 1981, NARF attorneys continued to monitor the prison's compliance with the consent decree.

•

Sisseton-Wahpeton Parent Committee

Indian parents from Sisseton South Dakota - chartered by their Tribe as the Sisseton-Wahpeton Sioux Parent Committee - requested NARF's assistance regarding the Tribe's long history of problems with the school district regarding compliance with requirements of funding from Johnson-O'Malley, Title IV of the Indian Education Act, and Impact Aid. Even though Indian students comprise almost 50% of the school's total enrollment, no Indian parents have been able to get elected to the school board. Totally frustrated in their efforts to improve the present school system, the Tribe and the Parent Committee requested NARF's assistance in establishing such a school. NARF is conducting legal and factual research regarding present ownership of the school facilities and other matters relative to establishing an Indian school.

An Indian sweat lodge being built in a prison yard for religious ceremonies. Over the years, NARF has successfully defended the civil and cultural rights of Indian inmates.

White Eagle v. Storie

This is a class action suit filed by NARF in 1977 on behalf of Indian inmates of the Thurston County jail in Nebraska claiming violations of a variety of constitutional rights. The suit sought to improve the physical conditions of the jail, medical treatment, unlawful confinement and other practices at the jail. Since 1977, NARF has been conducting discovery procedures and obtaining a number of favorable interim judgments on issues such as medical treatment and illegal confinement. In 1980-81, NARF engaged in extensive negotiations aimed at a comprehensive settlement of the remaining issues of the case. As of September 1980, agreement was reached on the substantive provisions of all claims and drafting a comprehensive settlement was being completed.

•

Creek Cemetary Ordinances

The Indian descendents of persons buried in Muskogee (Creek) burial sites in Oklahoma have been denied access to those sites by the owners of the lands on which these sites are located. NARF was asked to assist the Tribe, and prepared a report recommending solutions to the access problem. The alternatives considered included a tribal ordinance, a statute, litigation either by the Tribe or Indian individuals, or the establishment of a tribal cemetary. These alternative courses of action are now being reviewed.

BEST COPY AVAILABLE

Badoni v. Higginson

On June 16, the U.S. Supreme Court declined to review a federal appeals court decision which rejected the religious freedom claims of members of the Navajo Tribe. Certain religious leaders of the Tribe claimed that when the federal government impounded the water to form Lake Powell in southern Utah, they had destroyed Indian religious sites and denied tribal members access to a site held sacred by them. They also claimed that allowing tourists onto the site has resulted in desecration of the sacred area and denied the Indians their right to conduct religious ceremonies at the prayer site.

In ruling against the tribal members, the appeals court held that the public interest behind the building of the Glen Canyon Dam and Reservoir outweighed the Indians' religious interests. The court also ruled that giving the Indian plaintiffs the relief they were asking, such as excluding tourists during times when Indian religious ceremonies were being held, would violate the Establishment Clause of the First Amendment. NARF filed amicus curiae briefs on behalf of several tribes and church groups in support of the Navajo claims (Badoni v. Higginson, 638 F.2d 179 (10th Cir. 1980), cert. denied, June 16, 1981, 49 U.S.L.W. 3931).

•

Point Conception

Since 1978, NARF has represented the Santa Barbara Indian Center in efforts to block the construction of a liquified natural gas terminal at Point Conception on the California coast. The Point Conception area contains the sites of numerous ancient Chumash Indian villages and cemetaries. To the Indians, the site is sacred and they believe that construction of the terminal would be a desecration of the grounds and violate their religious freedom rights.

Following the 1979 approval by the Department of Energy of the Point Conception site, appeals of that decision were filed in 1980 in the court of appeals. However, the court postponed action pending a decision by the Federal Energy Regulatory Commission (FERC) on whether to reconsider its decision in light of new evidence of siesmic instability of the site. Upon FERC's refusal to reconsider, various parties in opposition to the project, including the Indian Center, moved to have the case remanded to FERC. The Court of Appeals granted the motions and remanded the case to FERC for consideration of the siesmic issues. FERC began its reopened hearings in 1981. NARF serves as co-counsel in the case, being primarily responsible for the federal proceedings, while proceedings before the California Public Utilities Commission are handled by local counsel and California Indian Legal Services.

•

AIHEC

NARF has continued to assist the American Indian Higher Education Consortium on an "as needed" basis. AIHEC was founded in 1972 by the then existing Indian-controlled community colleges. AIHEC and its 18-member, Indian-controlled community colleges have been very successful in providing and improving educational programs to reservation Indians seeking higher education opportunities. One of the major problems common to all the tribal colleges was to find a stable base of funding. AIHEC gave this top priority and, with NARF's legal assistance, these efforts culminated in 1978 in the passage of the Tribally Controlled Community Colleges Assistance Act (Pub. L. 95-471). At AIHEC's request, NARF also assisted in drafting regulations for implementation of the new law. Recently, NARF has provided legal guidance to the AIHEC staff in their efforts to more effectively operate under the 1978 Tribally Controlled Community College Assistance Act, and to provide more effective technical assistance to the member colleges. During the past year, NARF provided legal assistance to AIHEC in drafting amendments to the Tribally Controlled Community College Assistance Act based upon problems encountered by AIHEC during its first few years of working under the Act. Hopefully, these amendments will be added during the upcoming reauthorization in Congress.

Accountability of Governments

Federal Indian Appropriations

High inflation and current federal budget policies have hit tribes and Indian people harder than any other people in the United States. In March 1981, the Administration proposed to cut the federal Indian budget by 34%, or $1.3 billion, in every area of Indian life: legal services (100%, or $6.2 million), health facilities (82%, or $36 million), economic development (82%, or $30 million), housing (96%, or $782 million), energy resource management (46%, or $8 million) and jobs and training (45%, or $113 million). In September 1981, the Administration proposed an additional 12% cut in all programs, which was rejected by Congress. Congress restored much of the funds in the federal Indian budget, with specific rejection of massive cuts in areas where treaty rights are involved and where there are few or no alternatives to federal services.

NARF was actively involved in the national Indian effort to seek restoration of funding in Congress, and assisted many tribes and Indian organizations to understand the complex appropriation and budget processes. In addition, NARF led successful efforts to remove legislative riders to funding bills that would have impeded tribal representation in litigation, infringed upon tribal resource management, and violated Indian treaty rights without according tribes the opportunity of a fair hearing.

•

Sand Creek Massacre

In 1864, the U.S. Cavalry attacked and massacred a group of peaceful Cheyenne Indians (mostly women and children) near Sand Creek, Colorado, despite the fact that they were supposedly under the protection of the United States Flag. In 1865, the United States signed a treaty with the Cheyenne people wherein, among other things, they promised lands to survivors and descendants of those killed at Sand Creek. The treaty directed the Secretary of the Interior to determine those surviviors and descendants eligible and to ascertain and set aside the land for them. This has never been done. The descendants of these Cheyenne people now live in Oklahoma. They requested NARF's assistance to determine their legal rights and to assist them in obtaining these lands. In 1980 NARF conducted extensive legal research into the applicable law and began preparing a petition to the Secretary of Interior requesting that he comply with the treaty provisions and set aside the land. NARF is also preparing for litigation on this issue if it becomes necessary.

•

Seminole Nation Food Distribution

In 1978, the Office of General Counsel for the Department of Agriculture's Food Distribution Program issued an opinion which concluded that Oklahoma tribes have no reservations for purposes of the Food Stamp Act which defines the areas eligible to receive food commodities. After a meeting with a representative of the Seminole Nation of Oklahoma, NARF requested that the Department of Agriculture reassess its policy on the eligibility of Oklahoma tribes to receive and distribute food commodities. In August 1981, a NARF attorney, representatives of the Seminole Nation, a representative of the Food Resource Action Center and the National Indian Food and Nutrition Resource Center met with USDA officials concerning a memorandum submitted by NARF requesting the Secretary of Agriculture to reassess the Department's position on the eligibility of Oklahoma tribes to participate in the Food Distribution Program. At the meeting it was announced that the General Counsel's Office of the USDA has been ordered to revaluate its position immediately. NARF

has been informed by the General Counsel's Office to expect a favorable opinion from USDA. NARF also worked with the Oklahoma congressional delegation to see if the Oklahoma problem can be addressed by an amendment to the Food Stamp Act, and a clarifying amendment has been recently introduced in Congress to ensure that Oklahoma tribes are treated equally by USDA in determining eligibility for the food commodity program.

•

In re Estate of Knight

This matter involves the scope of the Interior Secretary's discretionary authority to control an undivided interest in Indian trust lands inherited by a non-Indian heir during the period of time prior to the issuance of a fee patent as to that interest. On behalf of the Indian heirs, NARF contends that the General Allotment Act vests the Secretary with discretion to take all action he may deem necessary to protect the interests of the Indian heirs in winding up the trust as to the non-Indian's interest. Further, if during this winding-up period, the non-Indian's interest is inherited by a proper Indian beneficiary, the trust status as to that interest continues, and the Indian heirs need not affirmatively petition the Secretary to reacquire the interest in trust. Following an adverse decision by an Administrative Law Judge, NARF has filed an appeal to the Interior Board of Indian Appeals.

•

Seminole Jurisdiction Matter

The Seminole Tribe of Oklahoma sought and was denied eligibility to obtain funds on a non-matching basis from the Law Enforcement Assistance Administration (LEAA). The denial was based on a Solicitor's Opinion holding that the Tribe could not exercise the required civil and criminal jurisdiction. Based on this opinion, the Secretary of the Interior would not certify the Tribe as one which exercised law enforcement functions. NARF assisted the Tribe in preparing to challenge this determination. However, recent budget cuts have left LEAA without funds for grants. Whether to continue the challenge is a question which the Tribe is now considering.

Maynor v. Morton

NARF has been representing a group of Lumbee Indian individuals who were certified in 1938 by the Bureau of Indian Affairs as one-half or more Indian blood. The certification entitled the individuals to certain BIA services, but when the BIA never delivered, NARF filed a suit on the group's behalf. In 1974, the court ruled that the group was eligible for BIA services, and since that time the individuals have received limited services from the BIA. Since then, the group's goal has been to obtain a land base and organize under the Indian Reorganization Act. NARF assisted them in drafting a constitution, and lobbied on the group's behalf to get the Department of the Interior to take a parcel of the land in trust for them. The group submitted its constitution for the BIA's approval, but the Department denied the group's request to take land in trust in September 1980. It was apparent from documents obtained by NARF that the decision had been based on erroneous information about the group. For that reason, NARF recommended that the Interior Department be asked to reconsider its decision. However, the Lumbee group has not, to date, decided whether to proceed on that advice. They may pursue options other than those recommended by NARF, and this matter may be closed as far as NARF's involvement is concerned.

•

Keweenaw Bay Census Count

The Keweenaw Bay Community on the L'Anse Reservation in Michigan challenged what the Tribe believed was a gross undercount of their members in the 1980 census. Part of the problem was that the U.S. Census treated reservation Indians as a racial rather than a political group, supplying the Tribe with the Indian count by county rather than by reservation. The Census Bureau also planned to release reservation population figures in the Fall of 1981 or early 1982 rather than issue them with the counts supplied to other political entities. NARF filed a challenge to the undercount pursuant to U.S. Census regulations. That challenge, and other census advocacy efforts by NARF, resulted in a decision by the Census Bureau to

issue a special report on reservation counts in June 1981, and the development of procedures to deal with tribal challenges to the census. The undercount has now been adjusted to the satisfaction of the Tribe by the U.S. Census Bureau through negotiations conducted by NARF.

•

South Dakota Trust Land Claims

The Bureau of Indian Affairs had a long-standing policy in South Dakota to sell an Indian's individual trust land to pay his debts when he died. This policy was discontinued upon a solicitor's ruling that this was in violation of trust law, but not before many Indians were divested of their interest in the trust lands which were unlawfully sold. In the Spring of 1980, NARF received a request from the Dakota Plains Legal Services for legal assistance in analyzing this wide-scale problem in South Dakota and in taking steps to solve it. NARF researched possible litigation strategies together with recommendations on a legislative approach to resolving the claims and the Department of the Interior was contacted concerning the legislative solution. NARF will continue working with the Dakota Plains Legal Services to reach a solution to this problem.

•

Wright v. Schweiker

When 14 Indian employees of the BIA and IHS at the Rosebud Sioux Reservation applied for grazing allocations which they usually received, they were denied them on the basis of a new conflict-of-interest law pertaining to federal employees. With a couple of exceptions, all were laborers in non-administrative federal positions. Suit was instituted in U.S. District Court in South Dakota, but the day before the hearing, the United States agreed to implement regulations used under the old law and under which these clients were entitled to allocations. The Indian employees are now able to keep the grazing allocations that many had relied on for years to provide income for families (Wright v. Schweiker, filed Oct. 8, 1981, Civ. No. 81-3059, U.S. Dist. Ct. for So. Dak.).

Rosebud Sioux Federal Audit

Like most federally recognized tribes, the Rosebud Sioux Tribe of South Dakota receives funding from various federal programs as a part of the trust responsibility of the United States to American Indians. A recent audit of CETA funds received by the Tribe reported that a substantial amount of their CETA grants could not be allowed. The Tribe asked NARF to assist it in reaching a settlement with the federal agencies involved since the Tribe's objection to the audit findings amounted to only a small reduction in the unallowed expenditures. NARF attorneys held several meetings with the agencies and later filed an administrative appeal on the Tribe's behalf. NARF has also tried to get the Bureau of Indian Affairs to intercede for the Tribe. The BIA agreed to set up a negotiating team with representations from the federal agencies involved with the grant audit, and NARF is in the process of preparing for a hearing.

Development of Indian Law

National Indian Law Library

The National Indian Law Library is this country's major national repository and clearinghouse for materials in the field of Indian law. Since 1972, the National Indian Law Library (NILL) has been collecting, cataloguing and distributing materials to its clients throughout the country. The idea for an Indian law library arose in the early days of NARF when staff attorneys discovered that research into Indian law was severely limited by the lack of any central collection of Indian legal materials. In addition, legal services programs then being established on Indian reservations throughout the country were having even greater problems because of their remote locations and lack of local resources.

Therefore, to meet its own needs and to assist others working for Indian rights, NARF established the library with a startup grant from the Carnegie Corporation in 1972. The library is now supported by the Administration for Native Americans of the Department of Health and Human Services, as well as by other grants. To NARF attorneys, as well as other Indian advocates throughout the country, NILL has become an indispensable source of materials and information. For instance, litigation is a major determinant of the rights of Native Americans. By providing attorneys with an indexed collection of briefs and pleadings in relevant Indian cases, they are better able to conduct their research and plan their litigation strategy. It is support such as this in which NILL's importance lies.

The NILL Collection

The NILL collection is unique. It is the only one which includes opinions in nearly every major Indian case since the mid-1950s, along with the briefs and pleadings in many of the cases. The collection also includes law review articles, books, treaties, studies, reports, legislative histories, opinions of the Solicitor, tribal codes, decisions of the Indian Claims Commission, and many other Indian law materials. All materials acquisitioned by the library are indexed under a special Indian law subject index of over 400 subject headings and subheadings which was developed and copyrighted by NARF when the library began. The Index has been recently revised to reflect changes and developments in the field of Indian law.

In order to obtain materials for the collection, the NILL staff reviews the various legal reporters for Indian cases, major Indian periodicals, and other legal publications. NILL then contacts the attorneys handling the cases and requests the briefs and pleadings. Of course, many of the cases added to the collection are NARF's own cases.

The NILL Catalogue

The essential function of the library is the dissemination of information and materials it has collected. There are several ways this is accomplished, but by far the major method is by publication of the "National Indian Law Library Catalogue: An Index to Indian Legal Materials and Resources." For the past two years, the staff has been preparing for the publication of a new edition of the Catalogue to replace the 1976 edition.

As part of the preparation, the decision was made to computerize all the information contained in the library's shelf card for each acquisition. This will facilitate research into the collection by enabling the staff to search by several areas at once, such as subject, title of case, state, tribe, reservation, or date.

By June 1981, programs were perfected for data entry and entry of the 3,400 acquisitions in the collection began in earnest. By the end of September, over

2,000, or about two-thirds of the total number of acquisitions, had been entered. A major task of the entry of cases was the fact that many of the cases were not complete, and considerable time was spent contacting attorneys and courts for information as to the final disposition of the cases. An important feature of the computerization is that the information stored in the computer can be retrieved in a typesetting format and will expedite publication of cumulative editions of the Catalogue in future years. The 1982 cumulative Edition of the Catalogue will be one of the most useful and comprehensive tools available to those working in the field of Indian law.

Other 1981 Activities

When not occupied with the computer conversion work, the NILL staff continued its regular duties of collecting and disseminating Indian legal information throughout the country. Major activities consisted of the following.

Federal Bar Association Bibliography. The library staff prepared an updated and revised version of its "Bibliography of Selected Areas of Indian Law" for the Federal Bar Association's annual conference on Indian Law in Phoenix, Arizona, as the library's annual contribution to the conference.

Indian Claims Commission Decisions, Volumes 42 and 43. Printing of the final two volumes of the ICC Decisions was completed and orders for these volumes were filled in March.

Requests for NILL Information. The NILL staff filled over 700 requests for materials during the January-September period.

Regular Activity. The NILL staff continued its routine activities of scanning U.S. Law Week, the case reports advance sheets, and the Federal Register for recent developments in Indian law; distributing copies of the casebook, Federal Indian Law; contributing reports on recent NILL acquisitions for publication in the Indian Law Support Center's monthly newsletter; and continuing to maintain NARF law libraries in both the Boulder and Washington, D.C. offices.

Indian Law Support Center

Since 1972 the Native American Rights Fund has operated the Indian Law Support Center which provides backup legal assistance to legal services programs serving Indians on reservations, in rural communities and in urban areas throughout the country. During these ten years, literally hundreds of requests for assistance in all areas of Indian law and general law have been answered annually. The Support Center program has enabled NARF to reach out and help more Indians and Native Alaskans than any other program could possibly do.

The Legal Services Corporation has 17 national backup centers to assist their local legal services programs around the country in specialized areas of law. The Indian Law Support Center operates within the policy guidelines of NARF, and is also governed by a nine-member Program Advisory Committee (PAC) consisting of client and legal services project representatives. Like the other national backup centers, the Center's basic purpose is to enhance the quality of the services that local programs render their clients. This is especially necessary for Indian legal services since most Indian programs are in remote areas, have a high percentage of inexperienced attorneys and a high turnover rate. The availability of NARF's experienced attorney staff is, therefore, of great value to the local attorneys.

Assistance Available from the Center

Legal services attorneys receive assistance on Indian law matters in areas of litigation, legal research, materials and information and other matters. The Center seeks to respond to every request through: (1) letter and telephone advice on Indian law problems; (2) furnishing legal materials; (3) legal research; (4) direct archival research; (5) field consultation; (6) the review of court pleadings and briefs sent in from the field; (7) analysis of legislation; and (8) assistance in locating expert witnesses and other consultants. The attempt is made to put the full resources of NARF at the disposal of local legal services, including attorney staff, the National Indian Law Library and other

Anita Remerowski (left), Center Director, and Gloria Cuny, ILSC Assistant.

resources, limited only by funding levels of the Center and of NARF.

Major 1981 Activities

In addition to responding to regular requests from the Indian field programs, the Center's activities involved several other projects during the year.

The Center Newsletter. The Center continued publication of its monthly newsletter to Indian legal services programs, the purpose of which is to provide information on significant developments in Indian law and legislation, and to serve as a forum enabling Indian legal services attorneys to exchange ideas and information. The newsletter is now sent to approximately 300 local programs, urban Indian centers and individuals.

Litigation Assistance. Under new priority setting, the Center does not plan to take on any new litigation in which the Center is co-counsel, except in an emergency. This decision reflects the Center's new resource allocation, but its ethical responsibility does require it to devote current resources to completing ongoing cases even in the face of budget cuts in 1982. However, the Center will continue to provide backup assistance to field programs on their litigation, including discussions on case strategy, legal research, materials, review of pleadings and briefs, identification of expert witnesses and the drafting of court documents. During 1981, the Center's litigation and other major "of-counsel" work consisted of the following cases, all of which are reported on in other parts of this Activities section:

1. Rincon Band, et al., FERC Project No. 176 (Water rights).
2. Rincon Band, et al. v. Escondido (Water rights).
3. Papago Tribe v. Pima Mining Co. (Water rights).
4. Muckleshoot Tribe v. Puget Sound Power & Light Co. (Water rights, fisheries).
5. U.S. v. Michigan (Fishing rights).
6. White Eagle v. Storie (Prisoners' rights).
7. Fort McDowell Indian Community (Orme Dam matter, flooding of reservation lands).
8. Brooks v. Nez Perce County (Land rights).

Advocacy. The Center's advocacy efforts in 1981 were devoted mainly to Indian housing issues. Indian legal services' reservation clients are the poorest housed clients in the country, and numerous Indian clients are on waiting lists for housing. The development of Indian housing must be coordinated with numerous Indian and non-Indian agencies in Washington. The Center also attempted to negotiate a settlement with the Interior Department involving Indian fishing rights in the Center's U.S. v. Michigan case (reported on elsewhere). And, consistent with the LSC Act and regulations, the Center assisted in the congressional advocacy efforts to preserve the Indian Law Support Center and the local Indian legal services programs when the Administration was proposing to terminate the federal legal services programs.

Training. A major function of the Center is to provide training for local legal services in significant areas. During 1981, the Center conducted a training session on legislative and administrative advocacy on Indian housing issues. On April 30-May 1, a health training session was held at the Center's Boulder office, focusing on the Indian Health Service; on July 9-10, the Center held a session on litigation strategies in Boulder; and on July 15-16, the Center co-sponsored a training session on Indian economic development in Seattle in conjunction with the National Economic Development and Law Center and

BEST COPY AVAILABLE

Evergreen Legal Services. The Center also provided financial assistance for four people to attend a training session on archival research in Washington, D.C.

Indian Law Manuals. The Center received a special grant for the development of four Indian law manuals for field programs and to enable NARF attorneys to make field visits to conduct Indian litigation conferences with legal services attorneys. The following topics were selected by the field programs for Indian law manuals, which are scheduled for publication in 1982:

Tribal Regulatory Systems. A "how to" approach to tribal regulation of activity on the reservation; model ordinances establishing regulatory bodies; license or permit systems; procedures for suspension or termination of permits; and penalties for proceeding without the required license.

Protection of Tribal and Individual Lands. Strategies to protect Indian lands and resources against exploitive development.

Education Programs for Indians. A manual to assist field programs in ensuring that Indians have significant impact upon education decisions and access to needed programs.

Indian Economic Development Manual. This manual will cover planning for economic development, creating and structuring tribal enterprises on the reservation, joint ventures, relevant tax questions and problems associated with private sector financing.

NARF has a permanent commitment to Native Americans throughout the country and will continue to assist Indian legal services programs despite pending budget cuts. However, with reduced LSC funding, it appears that NARF's services may have to be cut back unless alternative funding is found to continue the Center's services in 1982 and the years to follow. The losers, of course, are the Native Americans who have come to rely on these services and in receiving quality legal representation.

Cohen Revision

In 1942, the federal government published "Felix S. Cohen's Handbook of Federal Indian Law," which is widely recognized as the leading treatise in the field. A revision of the 1942 edition was published in 1958, but is considered an inferior work by many Indian legal scholars. In matters involving the duties and responsibilities of the federal government to Native Americans, Cohen had forthrightly acknowledged the obligations of the United States, whereas the 1958 revision retreated substantially from that position, and reflected much of the termination policy of the 1950s.

In the 1968 Indian Civil Rights Act, Congress mandated that an updated edition of Cohen's work be published. A few years later, funds were appropriated and the Department of the Interior began work on a new edition. Unfortunately, the revision was never finished and the Interior Department later abandoned the project. The revision project was then turned over to the University of New Mexico. Since 1977, NARF attorneys have been assisting on portions of the revision, partly under a special contract with the University of New Mexico. NARF's work was completed in 1981 and the new edition is to be published in 1982.

•

Conference and Organization Activities

During 1981, NARF attorneys and other staff members participated in a wide variety of conferences, workshops, seminars and board meetings on Indian law and other areas of Indian affairs. As an organization working on a national level with Indian clients in over 40 states, it is necessary that NARF staff participate in these meetings to keep informed of current Indian issues around the country and share its Indian law expertise with others.

Participation at non-Indian conferences is also necessary because the development of Indian law is not only accomplished by litigation, but also through educating the non-Indian community on the nature of Native American rights.

"I think we will still win, I think there are enough people who wish to understand the Indian mind, that we are not going to harm anyone, that we are peaceful people, we are not aggressive people. In this lies our strength and from here we will pick up. I believe that we will survive, I still believe we will survive. That is our dream." — An Indian Grandfather.

Treasurer's Report

The previous numbered page in the original document was blank

Treasurer's Report

In fiscal year 1981 (October 1, 1980 to September 30, 1981), the Native American Rights Fund employed 13 attorneys and two legislative liaisons for most of the year on behalf of our Native American clients. Total expenditures for the Year for these 15 positions, their staffing and support costs, the National Indian Law Library and other special projects were $1,937,156. In comparison, the previous year's figures were approximately 17 positions and $2,116,116 in total expenditures. Funding decreases account for the reduction in staff and expenditures.

The percentage of NARF's total expenditures devoted to litigation and client services in fiscal year 1981 decreased by 7% from the previous year. This decrease and the corresponding increase in the management and fund raising percentage was due primarily to loss of the two attorney positions. However, with 75% of NARF's expenditures devoted to litigation and client services and 25% for management and fund raising, NARF is still well within acceptable standards. Percentages of expenditures are compared below for fiscal years 1980 and 1981.

Functional Expenses: Two-Year Comparison

Program:	FY '81	FY '80
Litigation & Client Services	70%	78%
Nat'l Indian Law Library	5%	4%
	75%	82%
Administration:		
Management	15%	11%
Fund Raising	10%	7%
	25%	18%

NARF's revenues for fiscal year 1981 were $2,137,705, a decrease from 1980 revenues of $2,183,824. Funding sources are compared for fiscal years 1980 and 1981 below:

Revenue Sources as a Percent of Total

	FY '81	FY '80
Federal	55%	68%
Private Foundations	27%	21%
Individuals and Corporations	12%	8%
Other	6%	3%
	100%	100%

It is notable that the share of NARF's funding which came from federal agencies decreased by 13% in 1981 from 1980's share. This decrease in federal funds for NARF's 1981 fiscal year prompted a cautious NARF expenditure plan in 1981 as part of NARF's long-range financial strategy necessary to meet its important client commitments in the future. This trend in decreased federal funding will also require NARF to rely more heavily on private foundations, corporations and individual contributors for support in the years ahead.

On the following pages are the audited financial statements for NARF's 1981 fiscal year, followed by a list of contributors to NARF during FY '81.

Susan R. Hart
Treasurer

Price Waterhouse

2300 COLORADO NATIONAL BUILDING
DENVER, CO 80202
303 571-1144

December 14, 1981

To the Steering Committee of
Native American Rights Fund, Inc.

In our opinion, the accompanying balance sheet and the related statements of support, revenue, expenses and changes in fund balance, of changes in cash and of functional expenses present fairly the financial position of Native American Rights Fund, Inc. at September 30, 1981 and the results of its operations and changes in fund balances and the changes in its cash for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Our examination of these statements was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

Price Waterhouse

1

NATIVE AMERICAN RIGHTS FUND, INC.

BALANCE SHEET

SEPTEMBER 30, 1981

	Current funds		General fixed	Total
	Unrestricted	Restricted	asset fund	all funds
ASSETS				
Cash (including short-term investments of $700,000)	$956,924			$ 956,924
Marketable securities, at market (Note 2)	29,929			29,929
Grants receivable (Note 6)		$ 68,410		68,410
Other receivables	14,265			14,265
Prepaid expenses	13,136			13,136
Interfund receivable (payable)	(342,569)	342,569		
Property and equipment, at cost (Notes 3 and 4):				
Land and buildings, pledged			$ 313,938	313,938
Improvements to land and buildings			62,322	62,322
Office equipment and furnishings			242,830	242,830
Professional library			64,103	64,103
			683,193	683,193
Less - Accumulated depreciation			(200,179)	(200,179)
Net property and equipment			483,014	483,014
	$671,685	$410,979	$ 483,014	$1,565,678
LIABILITIES AND FUND BALANCES				
Accounts payable	$ 93,545			$ 93,545
Accrued sabbatical leave	50,306			50,306
Other accrued expenses (Note 5)	124,546			124,546
Deferred revenue (Note 6)		383,026		383,026
Interfund loans payable (receivable) (Notes 7 and 8)	(96,864)	27,953	$ 68,911	
Mortgages and notes payable (Note 4)			190,705	190,705
	171,533	410,979	259,616	842,128
Fund balances	500,152		223,398	723,550
	$671,685	$410,979	$ 483,014	$1,565,678

The accompanying notes are an integral part of the financial statements.

2

NATIVE AMERICAN RIGHTS FUND, INC.

STATEMENT OF SUPPORT, REVENUE, EXPENSES AND CHANGES IN FUND BALANCES

FOR THE YEAR ENDED SEPTEMBER 30, 1981

	Current funds		General fixed	Total
	Unrestricted	Restricted	asset fund	all funds
Support and revenue:				
Grants		$1,758,619		$1,758,619
Contributions	$247,037			247,037
Other	136,001			136,001
Loss on disposal of fixed assets			$ (3,952)	(3,952)
Total support and revenue	383,038	1,758,619	(3,952)	2,137,705
Expenses:-				
Program services:				
Litigation and client services	12,370	1,309,042	24,028	1,345,440
National Indian Law Library	13,462	87,026	1,963	102,451
Total program services	25,832	1,396,068	25,991	1,447,891
Support services:				
Management and general	24,915	263,835	4,908	293,658
Fund raising	122,826	70,491	2,290	195,607
Total support services	147,741	334,326	7,198	489,265
Total expenses	173,573	1,730,394	33,189	1,937,156
Excess (deficiency) of support and revenue over expenses	209,465	28,225	(37,141)	200,549
Fund balances, beginning of year	291,456	-0-	231,545	523,001
Other changes in fund balances:				
Acquisition of fixed assets	(799)	(10,291)	11,090	
Reduction in mortgage and notes payable	(944)	(10,330)	11,274	
Telephone usage charge (Note 7)	(6)	(7,604)	7,610	
Other transfers	980		(980)	
	(769)	(28,225)	28,994	
Fund balances, end of year	$500,152	$ -0-	$223,398	$ 723,550

The accompanying notes are an integral part of the financial statements.

3

NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENT OF CHANGES IN CASH
FOR THE YEAR ENDED SEPTEMBER 30, 1981

	Current funds		General fixed	Total
	Unrestricted	Restricted	asset fund	all funds
Cash was provided by (used for):-				
Excess (deficiency) of support and revenue over expenses	$209,465	$ 28,225	$(37,141)	$200,549
Add (deduct) items not using (providing) cash:				
Deferred contributions and grants receivable recognized as support and revenue		(396,096)		(396,096)
Depreciation			33,189	33,189
Increase in unrealized depreciation of marketable securities	3,194			3,194
Loss on disposal of fixed assets			3,952	3,952
Donation of stock	(5,236)			(5,236)
Cash provided by (used for) operations	207,423	(367,871)	-0-	(160,448)
Deferred contributions received and grants receivable collected		691,247		691,247
Increase (decrease) in interfund payables (receivables)	251,019	(295,151)	44,132	
Net fund balance transfers	(769)	(28,225)	28,994	
Proceeds from sale of marketable securities	321			321
Decrease in prepaid expenses	4,396			4,396
Increase in accrued sabbatical leave	14,934			14,934
Increase in other accrued expenses	29,378			29,378
Proceeds from dispositions of fixed assets			980	980
Cash provided (used for)	506,702	-0-	74,106	580,808
Cash was used for:				
Increase in other receivables	6,497			6,497
Fixed asset additions			62,833	62,833
Repayment of mortgages and notes payable			11,273	11,273
Decrease in accounts payable	44,347			44,347
Cash used	50,844	-0-	74,106	124,950
Decrease in cash	$455,858	$ -0-	$ -0-	$455,858

The accompanying notes are an integral part of the financial statements.

4

NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENT OF FUNCTIONAL EXPENSES
FOR THE YEAR ENDED SEPTEMBER 30, 1981

	Program services			Support services			
	Litigation and client services	National Indian Law Library	Total	Management and general	Fund raising	Total	Total expenses
Salaries and wages:							
Professional staff	$ 507,114	$ 39,627	$ 546,741	$109,045	$ 37,490	$146,535	$ 693,276
Support staff	117,762	23,280	141,042	36,636	19,916	56,552	197,594
Fringe benefits	86,685	6,109	92,794	19,755	7,874	27,629	120,423
Total salaries and related costs	711,561	69,016	780,577	165,436	65,280	230,716	1,011,293
Contract fees and consultants	239,062		239,062	32,153	23,877	56,030	295,092
Travel	128,830	904	129,734	20,441	8,495	28,936	158,670
Space costs	39,662	3,809	43,471	30,826	2,878	33,704	77,175
Office expenses	146,389	25,364	171,753	38,204	90,861	129,065	300,818
Equipment maintenance and rental	8,331	244	8,575	1,443	801	2,244	10,819
Litigation costs	22,616		22,616				22,616
Library costs	24,961	1,151	26,112	247	1,125	1,372	27,484
Expenses before depreciation	1,321,412	100,488	1,421,900	288,750	193,317	482,067	1,903,967
Depreciation	24,028	1,963	25,991	4,908	2,290	7,198	33,189
Total expenses	$1,345,440	$102,451	$1,447,891	$293,658	$195,607	$489,265	$1,937,156

The accompanying notes are an integral part of the financial statements.

NATIVE AMERICAN RIGHTS FUND, INC.

NOTES TO FINANCIAL STATEMENTS

SEPTEMBER 30, 1981

NOTE 1 - ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

Organization

Native American Rights Fund, Inc. (NARF) was organized in 1971 under the nonprofit corporation law of the District of Columbia and has a primary objective of providing legal representation, assistance and education to Native American people. NARF derives financial support from private foundations, the United States Government and from public contributions.

NARF is a tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code and, as such, is subject to federal income taxes only on unrelated business income.

Effective September 1, 1981, NARF adopted a limited fee policy in order to ensure that NARF will continue to meet its objectives as stated above. NARF has submitted an amendment to the original tax-exempt application to the Internal Revenue Service and has requested a determination from them regarding their status. No fees were earned in fiscal year 1981.

Revenue recognition:

A substantial portion of NARF's revenue is derived from restricted grants and contracts. Revenue from such restricted sources is deemed to be earned when NARF has incurred costs which satisfy restrictions imposed by the respective grants or contracts. Funds received from restricted sources in excess of costs incurred are reported as deferred revenues. Where costs have been incurred in excess of funds received from restricted sources, revenue and related receivables are recognized to the extent of such costs unless, in management's opinion, future grant or contract funds will be insufficient. In such cases, costs are charged to unrestricted funds.

In absence of a designated period for use, contributions and donations from unrestricted sources are generally recognized when received; however, enforceable pledges are recorded as revenue and receivables in the year made. Donations of marketable securities or other in-kind contributions are recorded as revenue at their estimated fair market value at the date of contribution.

Interfund receivables (payable):

Generally, funds received by NARF are deposited in a general bank account and segregation of cash and certain other assets and liabilities between restricted and unrestricted funds is not maintained in the accounting records. Segregation of revenue and expenditures applicable to restricted, unrestricted (including segregation within the restricted fund by grant source) and the general fixed asset funds is maintained in the accounting records. The interfund receivable (payable) results from the receipt of deferred revenue in excess of net assets specifically identifiable with the restricted fund at September 30, 1981.

Allocation of expenses:

Expenses are allocated to grants based on related professional legal time devoted to projects except where expenses are specifically identifiable with a particular grant or project.

Professional staff:

Personnel classified as professional staff in the accompanying financial statements include attorneys, legislative liaison, librarians and office management personnel.

Fund raising:

Fund raising expenses are comprised of costs associated with contribution revenue and costs associated with obtaining grants from private foundations and governmental agencies.

Property and equipment:

Purchases of property and equipment and payments on the note and mortgage liabilities are expenditures of the current funds. Such expenditures are treated as transfers to the general fixed asset fund (Note 3).

Depreciation:

Depreciation is computed over the estimated useful lives of the assets using the straight-line method for buildings and the professional library and the declining balance method for other property and equipment.

NOTE 2 - MARKETABLE SECURITIES:

Marketable securities consist of marketable corporate securities. These investments are stated at market value which was approximately $8,300 less than cost at September 30, 1981. The net loss recognized in the unrestricted fund during the year resulted primarily from a net increase in unrealized depreciation of $3,194.

NOTE 3 - TRANSFERS TO GENERAL FIXED ASSET FUND:

Net transfers to the general fixed asset fund from current restricted and unrestricted funds consisted of the following during the year:

Telephone usage charge	$ 7,610
Purchases of office equipment and furnishings	6,681
Principal payments on mortgages and notes	11,274
Additions to professional library	4,409
Proceeds from dispositions	(980)
	$28,994

NOTE 4 - MORTGAGES AND PROMISSORY NOTES PAYABLE:

Long-term debt consisted of the following at September 30, 1981:

	Portion due within one year	Total
Mortgage loan payable in equal monthly instalments of $1,112, including interest at 8 3/4%, through May 1983, with a final principal payment of $89,491 due in June 1983. Secured by land and building	$ 4,995	$ 97,879
Mortgage loan payable in equal monthly instalments of $482, including interest at 5 1/2%, through March 1985. Secured by land and building	4,628	23,125
Promissory notes payable in equal monthly instalments of $720, including interest at 9%, through October 1985, with the remaining principal due November 1985. Secured by land and building	2,315	69,008
Other long-term debt	693	693
	$12,631	190,705
Less - Current portion of long-term debt		12,631
Portion due after one year		$178,074

Annual maturities of long-term debt are as follows: 1982 - $12,631; 1983 - $100,544, 1984 - $8,195, 1985 - $8,770; 1986 - $60,565.

NOTE 5 - RETIREMENT PLAN:

Effective October 1, 1976, NARF adopted a money purchase pension plan for all full-time employees. Annual contributions to the plan by NARF are at amounts equal to 5% of each participant's compensation. Additional contributions to the plan may be made by the participants but are not required. Pension expense is provided at an amount equal to 5% of each full-time employee's compensation. A participant's interest in NARF's contribution becomes vested at the rate of 10% for each year of service. Contributions by NARF and by participants are principally invested in life insurance annuity contracts. Pension expense for 1981 was $40,564.

NOTE 6 - GRANTS RECEIVABLE AND DEFERRED REVENUE:

Grants receivable and deferred revenue consisted of the following individual restricted grants or contracts at September 30, 1981:

	Receivable	Deferred revenue
Ford Foundation	$ 19,346	
Department of Health and Human Services, Administration for Native Americans		$231,626
Legal Services Corporation		84,007
Carnegie Corporation		45,877
Bureau of Indian Affairs	24,064	
McIntosh Foundation	25,000	
Lilly Endowment, Inc.		7,960
Edna McConnell Clark Foundation		567
Knistrom Foundation		6,119
National Endowment for the Humanities		512
National Rural Housing Coalition		6,358
	$ 68,410	$383,026

NOTE 7 - INTERFUND LOAN PAYABLE (RECEIVABLE):

During September 1978, NARF purchased a telephone system which replaced previously rented equipment. The cost of the telephone system was financed with funds borrowed from the unrestricted fund which will be repaid over a five-year period with the unpaid balance ($17,168 at September 30, 1981) bearing interest at 8% per annum.

The repayment is being effected through a usage charge to grantors who have approved the terms of the borrowing or in an amount equivalent to depreciation.

NOTE 8 - EVENT SUBSEQUENT TO SEPTEMBER 30, 1981:

During the year, NARF purchased certain equipment which was financed with funds borrowed from the unrestricted fund. On November 13, 1981, NARF borrowed $43,443 from a bank, the proceeds of which were used to reimburse the unrestricted fund. The note bears interest at 15% and is due in monthly instalments, including interest, of $1,034 through November 15, 1986.

The remaining amount of funds borrowed from the unrestricted fund of $8,300 will be repaid through a usage charge to grantors over a five-year period with the unpaid balance bearing interest at 15%. Alternatively, the charge will be equivalent to depreciation.

Contributors to the Native American Rights Fund

1981 Fiscal Year: October 1, 1980 to September 30, 1981

Foundations:	Grant Purpose:
Acorn Foundation	General Support
Aetna Life & Casualty Foundation	General Support
Carnegie Corporation of New York	Indian Lawyer Internships
Edna McConnell Clark Foundation	General Support
Cummins Engine Foundation	General Support
Ford Foundation	General Support
	Indian Education Legal Support
Grace Foundation	General Support
Fanny and Svante Knistrom Foundation	Eastern Tribal Claims Negotiations
Lilly Endowment	Western Indian Water Rights
McGraw-Hill Foundation	General Support
McIntosh Foundation	Water Rights Protection
Muskiwinni Foundation	Attorney Support/A. Locklear
Permanent Charity Fund of Boston	General Support
Governmental:	
Administration for Native Americans (Department of Health & Human Services)	National Indian Law Library
	Strengthening Tribal Governments
	Protection of Indian Natural Resources
Bureau of Indian Affairs, Office of Trust Responsibilities (Department of Interior)	Expert Witnesses
	Consultant Contracting
Law Enforcement Assistance Administration (Department of Justice)	Indian Offender Needs Assessment
Legal Services Corporation	Indian Law Support Center
	Tribal Recognition Project
National Endowment for the Humanities	Native American Radio Programming
Corporations and Organizations:	
American Telephone & Telegraph	General Support
Colorado-Ute Electric Association	General Support
Equitable Life Assurance Company	General Support
S. Forest Company	General Support
Frontier Airlines	General Support
Greyhound Corporation	General Support
Gulf Corporation	General Support
National Association of Indian Legal Services	Legal Services Corporation Survival Effort
National Rural Housing Coalition	Indian Housing Needs
Price Waterhouse & Company	In-Kind Support

Individual Donors

Mr. Grant D. Abert
Mrs. Robert Aitken
O. K. Albright
Mr. Michael Alexander
Mr. Ra Aman
Susan Andre
Mr. George Andrews
Mrs. Fanny H. Arnold
Dollie Ash

Mr. Emerson M. Babb, Jr.
Virginia R. Bacher
Ms. Antoinette O. Bailey
Ms. Elizabeth E. Baker
Mrs. Gates Baldwin
Katrina McCormick Barnes
Ms. Abbie Barron
Mr. & Mrs. John C. Bartley
Mrs. Helen M. Beardsley
Catherine Benson
Mrs. Harriet Benson
Ann Lurie Berlin
Dr. & Mrs. William Bernstein
Mrs. Leon F. Bialosky
Mrs. Edith S. Binns
Mrs. Timothy Blancke
Mr. Roger Boone
Charles Bowdlear, Ph.D.
Mr. Robert Bowker
Mr. W. T. Breckinridge
Mrs. & Mrs. William Bretnall
Mr. & Mrs. Frederick Buechner
Mrs. Alger T. Bunten
Miss Romana Burke
Nancy Bushnell
Carlton E. Byrne
Miss Esther S. Byrne

Mr. & Mrs. Alexander Campbell
Dallas Carroll
Ms. Linda Carter
Mr. C. M. Case, Jr.
Mrs. J. C. Castellano
Mrs. Edna B. Chapin
Mrs. Helen Chase
Mr. & Mrs. Henry Leland Clarke
Mrs. Lindsay Tawne Clegg
Mrs. Medora C. Coar
Miss Thelma E. Colley
Community Church-Chesterland
Lenore C. Compton
Ms. Suzanne K. Conte
Mr. Robert P. Cooney

Maud E. Corning
Mrs. John Hays Corson
Mr. Robert Cory, Jr.
Mr. William J. Cox
Ms. Joanne R. Cumiford
J. K. Cummings
Mr. Edward H. Cutler

Davenport Spring Co., Inc.
Joan K. Davidson
Frances Davis
Ms. Annie L. Dawson
Cosette Mary DeCresenzo*
Mr. Charles Y. Deknatel
Ms. Melissa J. Delaney
Mr. M. M. Devore
Mrs. S. C. Doering
Mr. Laurence Dorcy
Jean C. Dunring
Ethel L. Dupuis*

Ms. Lucille Echohawk
Ms. Lydia Edison
J. W. Elder
June Elliott
Raymond Embree
Mrs. F. L. Enevoldsen
Mr. Jack E. Engleman
David Epstein
Mel Erickson
Mr. David C. Etheridge

Mr. & Mrs. John Fatz
William & Carol Ferry
Mr. & Mrs. Joseph Fiore
Miss Hazel Fox
Mr. Russell Frehling
Mrs. Gail Freihofer

Ms. Margaret M. Gage
Dr. Catalina E. Garcia
Mr. Baldwin Gates
Mr. Adam Geballe
Mr. Gordon Geballe
Mr. & Mrs. Roy Gedney
Adrian Gill
Margaret L. Gish
Mr. & Mrs. Kenneth Graham
William C. Graustein
Dr. Rayna D. Green

Ms. Valerie Halla
Mr. Arthur Stuart Hanisch
Mr. & Mrs. Jack W. Hardy

*Given in Bequest

Ms. Pamela P. Harlan
Mr. B. Harvey
Dr. H. W. Harvey
Mrs. Jessie Hassler
Mrs. Fredrika T. Hastings
Mrs. Sara H. Haubert
Mr. Will H. Hays, Jr.
Mrs. Harriet M. Headley
Mrs. Jeanne Henle
Mr. Donald Henley
William D. Hill
Mr. Gregory Hnatio
Tracy Holmes
August L. Hormay
Mr. & Mrs. C. E. Howe
Mr. H. E. Howland
John P. Humes

Mr. Raymond Ickes

Miss Gladys M. Jackson
Dr. Paul H. Jacobson
Mr. Donald W. Jarrell
Miss Grace Jefferson
Mr. Herbert H. Jenkin
Rev. Wm. Buswell Johnson
Gladys Johnson
Anne B. Johnston
Howard Jones

Mary C. Kane
Mr. & Mrs. A. Grant Kennedy
Tamara Kerr
Mr. & Mrs. William R. Kimball
Dr. & Mrs. John Q. Taylor King
Beatrice Kirkbride
A. V. Kivell
Anne E. Krick
Roger S. & Bell Kuhn

Barbara Lane
Mr. Donald B. Lawrence
Mrs. Frances Lehman
Thomas Lehrer
Daniel Liu
Mrs. Dorothy Longfellow
Ms. Nancy R. Lowe
Miss Charlotte Lowery

Mrs. Margaret MacCosham
Mr. & Mrs. Robert MacCrate
Lincoln C. Magill
Mr. David Magnuson
Mrs. Henry S. Manley
Mr. S. Ed Marder

Marks, Shea & Wilks
Mr. Andrew Martin
Lee W. Martin
Victor Martino
Dr. & Mrs. David R. Matteson
Ernest N. May

Harry McAndrew
Mr. Jim McAuliff
Anne T. McBride
Pearle McCain
Mr. & Mrs. J. McDiarmid
Mr. Robert McDougal, Jr.
Miss Jo Ann McElravy
Rosine McFaddin
Mr. Harris McIntosh
Mr. Ross McKee

Mr. George W. Meek
Mrs. Helena Meltesen
Mrs. Ida Craven Merriam
Barbara Mettler
Ms. Carson Miller
Andrew C. Mills
Mrs. Elizabeth Mitchell
Mrs. Margaret Molarsky
Mrs. Olive Molumphy
Mr. & Mrs. Eugene Montgomery
Rozanne Montoya
Louise P. Moore
Mr. Benjamin F. Morrison
Mrs. Alexander Moss
Mr. Allen Moss
Mr. & Mrs. Everett E. Murray
Mr. Mark Murray
Mr. William Murray

Mr. Richard Nathan
Mr. Frank Nelson
Ms. Jill Nelson
Mrs. Theo Nelson
Mr. Richard Norman
Dr. Francis S. North

Evelyn Oathout
Mr. & Mrs. Carroll O'Conner
Deen H. Oehl
Mrs. Kady L. Offen
David Owens

Mr. Howard M. Pence
Mary E. Pennock
Miss Hollis Piatt
Mrs. Robert S. Pickens
Mr. William M. Preston

Mrs. Robert J. Redmond
Roy L. Regozin, Esq.
Mr. Lewis A. Rivlin
Henry R. Robins
Mr. Benjamin J. Rosenthal
A. S. Ruplin

Miss Yolanda Sanchez
Mr. Jay Sandrich
Mr. & Mrs. Adam G.Schaefer
Mrs. Arleta K. Schaub
Mr. & Mrs. Ryan P. Schmelz
Mr. & Mrs. Sherwood Schwartz
Peggy Scott
Ms. Anne E. Segraves
Mr. John Sherman
Rev. & Mrs. H. Norman Sibley
Mr. John E. Silliman
M. Siluk
Mr. Daniel Singer
Andrew Skeeter
Ms. Eleanor N. Skoog
Mr. Ray L. Smalley
Mrs. Frank Soderling
Mr. Lawrence Soutter
Mr. Stephen A. Spalding
Mr. Robert M. Spire
Edgar V. Springer, Jr.
St. Benedict Queen of Peace Priory
Rich & Kathi Stafford
Ellen S. Stanton
Judith & Wm. Starr
Mr. Clifford R. Steed
Miss Ruth Stephens
Ms. Elaine Stockwell
Mr. & Mrs. Arthur E. Strauss
Norma & Gene Struckhoff
Mrs. Iphigene Ochs Sulzberger
Mrs. Marguerite T. Sundback

Nettie Tamler
Ms. Isabella G. Tate
Ms. Ana O. M. Taylor
Mr. Frank H. Teagle, Jr.
Mr. Richard B. Thomas
Mr. Douglas Thompson
Ms. Ruth Thompson
Mr. Alan M. Thorndike
R. V. Tinker, M.D.

Anne P. Tobey
Grace I. Tobey
Mrs. James Toole
Norman Tucker
Beatrix Turner
Mr. Robert C. Turner

Mrs. Kedma Utt

Mr. Thomas Vicens

Ms. Julia T. Walker
Miss Katherine Walker
Mr. Henry Wallace
Ms. Barbara Waters
Ms. Jeanette A. Weaver
Mary & Edmund Weingart
Christina & Grace Weppner
Margaret Westra
Mrs. Belle H. White
Mrs. Maria White
Mr. & Mrs. John D. Wiese
Ms. Suzanne C. Wilson
Ms. Mildred Winthor
Ms. Bee R. Wolfe
Mr. Daniel C. Wolfe
Ethylee Woodward
Mr. & Mrs. Gordon Wozniak

Marguerite Zerbe
Mrs. Floyd Zimmer
Helen Zuckerman

"If the Great Spirit had desired
me to be a white man he would have made me so in the first place. He put in your heart certain wishes and plans, in my heart he put other and different desires. Each man is good in his sight. It is not necessary for eagles to be crows. Now we are poor but we are free. No white man controls our footsteps. If we must die we die defending our rights."
— Sitting Bull (Sioux).

Appendices

Professional Staff Members During 1981

Directors

John E. Echohawk (Pawnee) is the Executive Director of the Native American Rights Fund. He was the first graduate of the University of New Mexico's special program to train Indian lawyers, and was a founding member of the American Indian Law Students Association while in law school. John has been with NARF since its inception, having served as Deputy Director of NARF, 1972-1973, Director, 1973-1975, and Vice-Executive Director, 1975-1977. He was reappointed Executive Director in 1977, 1979 and 1981. He has lectured on Indian law at the University of California at Berkeley and the University of Colorado at Denver. He serves on the Boards of the American Indian Lawyer Training Program, the Association on American Indian Affairs, and the National Committee for Responsive Philanthropy. He also served on the Task Force on "Trust Responsibilities and the Federal-Indian Relationship, Including Treaty Review" for the United States Senate's American Indian Policy Review Commission in 1976-1977. (B.A., University of New Mexico (1967); J.D., University of New Mexico (1970); Reginald Heber Smith Fellow (1970-1972); Native American Rights Fund (August 1970 to present); admitted to practice law in Colorado).

Jeanne S. Whiteing joined NARF in June 1975 as a staff attorney in the Boulder office. Ms. Whiteing, a Blackfeet-Cahuilla Indian, joined NARF following her graduation from law school in 1975. Her work has focused primarily on issues involving protection of land and natural resources. In May of 1981, she was appointed Deputy Director and is responsible for case intake and litigation coordination, in addition to her duties as a staff attorney. (B.A., Stanford University (1972); J.D., University of California, Berkeley (1975); Native American Rights Fund (June 1975 to present); admitted to practice law in Colorado).

Staff Attorneys

Lawrence A. Aschenbrenner joined NARF as a staff attorney in March 1977. Lare has over 20 years litigation experience and is the Directing Attorney for NARF's Washington, D.C. office. Prior to joining NARF's staff, he served in a number of legal capacities including: Acting Associate Solicitor for Indian Affairs and Assistant Solicitor for Indian Affairs in the Department of the Interior from (1974-1977); Chief Counsel for the Lawyers' Committee for Civil Rights Under Law in Jackson, Mississippi (1967-1969); a partner in a public interest law firm in Oregon; Public Defender for the State of Oregon; and District Attorney for Josephine County, Oregon.

Kurt V. Blue Dog, a Sisseton-Wahpeton Sioux from South Dakota came to NARF as a staff attorney in August 1977. He is working primarily in the areas of Indian education and Indian corrections. Kurt served as Co-Director of NARF's American Indian Religious Freedom Project in 1979. (B.A., University of South Dakota (1972); J.D., University of Minnesota (1977); Native American Rights Fund (August 1977 to present); admitted to practice law in Minnesota).

BEST COPY AVAILABLE

Richard B. Collins joined NARF as a staff attorney in November 1975. Rick has had extensive experience in Indian law in both trial and appellate work, having worked in Indian legal services programs from 1967 to 1975. For the last two years he has also been teaching at the University of Colorado School of Law. Rick also serves as legal adviser for NARF's National Indian Law Library.

(B.A., Yale (1960); LL.B., Harvard Law School (1966); Law Clerk, U.S. Court of Appeals, San Francisco, California (1966-1967); Associate Attorney/Deputy Director, California Indian Legal Services (1967-1971); Director of Litigation, DNA Legal Services, Window Rock, Arizona (1971-1975); Native American Rights Fund (November 1975 to present); admitted to practice in California, Arizona, New Mexico and Colorado).

Richard Dauphinais joined NARF as a staff attorney in June of 1979. A member of the Turtle Mountain Chippewa Tribe of North Dakota, Rick works in natural resource law and other areas. (B.B.A., Notre Dame (1975); J.D., Notre Dame (1979); and Native American Rights Fund (June 1979 to present); admitted to practice law in Colorado).

Walter R. Echo-Hawk, Jr., a staff attorney in the Boulder office, is a Pawnee from Oklahoma. For the past six years, he has concentrated his work at NARF in the field of Indian corrections. He has served as Co-Director of NARF's American Indian Religious Freedom Project and Director of the Indian Corrections Project. (B.A., Oklahoma State University (1970); J.D., University of New Mexico (1973); Native American Rights Fund (June 1973 to present), admitted to practice law in Colorado and the United States Supreme Court).

Douglas Endreson, of the Navajo Tribe, joined NARF as a staff attorney in August 1981. Doug attended law school at the University of Wisconsin where he received his J.D. degree in 1978, and L.L.M. in 1980. When he accepted the NARF position he was a law clerk for Justice Shirley S. Abrahamson of the Wisconsin Supreme Court. He was also one of the 33 finalists in the White House Fellowship selections. During his first year at NARF, Doug will be on NARF's "Indian Lawyer Intern Training Program," a special project funded by the Carnegie Corporation. (B.S., Colby College (1975); J.D., Wisconsin University (1978); L.L.M., Wisconsin University (1980); Native American Rights Fund (August 1981 to present); admitted to practice law in Wisconsin).

Yvonne T. Knight, a Boulder staff attorney, is of Ponca-Creek descent and a member of the Ponca Tribe. Yvonne was the first Indian woman law graduate of the University of New Mexico's Indian law Scholarship Program, a founding member of the American Indian Law Students Association, and served on the first AILSA Board of Directors. She was a member of Task Force No. 9 of the American Indian Policy Review Commission. Since joining NARF, she has worked in Indian education rights; land and water rights; and was actively involved in the passage and implementation of the Menominee Restoration Act. Recently, her work has been concentrated on real property rights, including interests in rights of way and submarginal lands, and hunting and fishing rights. She is also working in the area of Oklahoma Indian rights. (B.S., University of Kansas (1965); J.D., University of New Mexico (1971); High School Teacher, Kansas City, Kansas (1966-1968); Reginald Heber Smith Fellow (August 1971 to July 1974); Native American Rights Fund (1971 to present); admitted to practice law in Colorado).

BEST COPY AVAILABLE

Arlinda F. Locklear of the Washington, D.C. Office, a Lumbee Indian from North Carolina, joined the NARF staff in August 1976. Since joining NARF she has concentrated her work in the area of Eastern Indian rights and Indian water rights. (B.A., College of Charleston, South Carolina (1973); J.D., Duke University (1973); Native American Rights Fund (August 1976 to present); admitted to practice law in North Carolina and the District of Columbia).

•

Don B. Miller is a staff attorney in the Boulder office. Before transferring to the Boulder Office, he was Directing Attorney of NARF's Washington, D.C. office for almost three years. He works on a variety of issues including land claims and tribal restoration. Prior to coming to NARF, Don was the first director of the Organization of the Forgotten American, which provided legal, economic, consumer protection and health services to the Klamath Indians in Oregon. (B.S., University of Colorado (1969); J.D., University of Colorado (1972); Executive Director, Organization of the Forgotten American, Klamath Falls, Oregon (1972-1974); Attorney-Adviser, Office of the Solicitor, Division of Indian Affairs, Department of the Interior, Washington, D.C. (September to December 1974); Native American Rights Fund (January 1975 to present); admitted to practice law in Colorado and the District of Columbia).

•

Terry Pechota, a member of the Rosebud Sioux Tribe of South Dakota, joined NARF as a staff attorney last September. After graduating from the University of Iowa law school in 1972, Terry went to work for the South Dakota Legal Services on the Rosebud Reservation, and in 1974 he was appointed Director of the program. His legal services work involved both criminal and civil cases, primarily civil rights, Indian rights and consumer affairs issues. He resigned in 1976 to go into private practice, during which time he represented the Rosebud, Oglala, Yankton and Lower Brule Sioux Tribes in cases involving Indian water rights and tribal government reorganiztion, taxation and other Indian rights issues. In October of 1979, he was appointed United States Attorney for the State of South Dakota. (B.S., Black Hills State College (1969); J.D., University of Iowa (1972); South Dakota Legal Services (1972-74, Director 1974-76); Private Practice (1976-1979); U.S. Attorney for South Dakota (1979-1981); Native American Rights Fund (September 1981 to present); admitted to practice law in Iowa, Nebraska, South Dakota, and before the Federal District Court for South Dakota, the Eighth Circuit Ccourt of Appeals and the U.S. Supreme Court).

•

Robert S. Peicyger, a staff attorney in the Boulder office, is nationally known for his work in the area of Indian water rights. Bob is one of the original NARF attorneys having been with NARF when it began as a pilot project in 1970 in California. His publications include: "Indian Water Rights: Some Emerging Frontiers," 21 Rocky Mountain Mineral Law Institute 743 (1976); "The Winters Doctrine and the Greening of the Reservations," 4 Journal of Contemporary Law 19 (1976); and the Principal Speech on Indian Water Rights at American Water Law Symposium, 15 Tulsa L.J. 699 (1980). He is also a contributing author to the revised Handbook of Indian Law (1981), and has taught at the Law School at the University of Colorado. (B.A., magna cum laude, University of Rochester (1963); LL.B., Yale Law School (1966); Fulbright Fellow (1966-1967); Staff Attorney, DNA Legal Services, Navajo Nation (1967); Staff Attorney, California Indin Legal Services (1967-1971); Native American Rights Fund (1971 to present); admitted to practice law in California and New York).

BEST COPY AVAILABLE

Anita Remerowski is a Boulder staff attorney and Director of the Indian Law Support Center, a project funded by the Legal Services Corporation. A graduate of Boalt Law School, University of California, Berkeley, she has worked as General Counsel to the Alaska State Operated School System and directed a state-wide reservation legal services program in South Dakota. In the latter capacity she has worked in Indian land claims, tribal court development, Indian housing and health, and community education. She has co-authored "Reservation Street Law" (a handbook on Indian law for reservation high school students) with Frank Pommersheim of Sinte Gleska College in Rosebud. (B.S., University of California, Berkeley (1969); J.D., University of California, Berkeley (1973); Assistant State Attorney General, Anchorage, Alaska (1973-1974); South Dakota Legal Services (1974-1980); Native American Rights Fund (September 1980 to present); admitted to practice law in Alaska, South Dakota, Federal District Court of South Dakota and the Seventh and Eighth Circuit Courts of Appeals).

•

Legislative Liaisons

Ada E. Deer, a member of the Menominee Tribe of Wisconsin, joined NARF in October 1979 as a legislative liaison. As both Vice-President and Congressional Liaison of the National Committee to Save the Menominee People and Forest, Ada played a key role in the passage of the Menominee Restoration Act of 1973, after which she was selected Chairperson of the Menominee Restoration Committee. She has been a member of the national boards of Common Cause and the Girl Scouts of America. She also served on the Congressional Commission on the Mental Health of Children, the American Indian Policy Review Commission, and currently serves on the President's Commission on White House Fellows. She also serves on the national boards of Rural America, Americans for Indian Opportunity, American Indian Scholarships and the Council on Foundations. She is past President of the Association of American Indian and Alaska Native Social Workers, and a member of the National Committee on Minority Affairs of the National Association of Social Workers. In August, 1981, Ada resigned to return to her prior position as a lecturer in the School of Social Work and Native American Studies Program at the University of Wisconsin. (B.A., University of Wisconsin (1957); M.S.W., Columbia University (1961)).

•

Suzan Shown Harjo, Cheyenne and Creek, is a citizen of the Cheyenne and Arapaho Tribes of Oklahoma. She has served as Legislative Liaison in NARF's Washington office since October 1979. Suzan previously directed NARF's advocacy activities from March of 1977 to March of 1978, when she accepted a political appointment in the Office of the Secretary of Interior. During her 19 months as Special Assistant to the Assistant Secretary for Indian Affairs, she also served as Member Alternate to the Board of Trustees, American Folklife Center, and Coordinator of the President's Task Force on American Indian Religious Freedom. Since rejoining NARF, she has successfully managed efforts to achieve passage of the Maine Indian Land Claims Settlement Act of 1980; to win a third extension of the statute of limitations on damage claims to Indian trust property; to exempt oil owned by tribes and individual Indians from the Windfall Profit Tax Act of 1980; and to protect Indian fishing, water, land, cultural and budgetary interests.

Prior to her work with NARF, Suzan was Communications Director and Legislative Assistant with the National Congress of American Indians, as well as Coordinator of the National Indian Litigation Committee. A former John Hay Whitney Fellow, she has also served as News Director of the American Indian Press Association; faculty coordinator for six semesters of a lecture series on contemporary Indian issues, School of Continuing Education, New York University; and Director of the Drama and Literature Department, WBAI-fm Radio

Station, where she also co-produced a biweekly program on current Indian issues, "Seeing Red." Suzan's poetry has been included in numerous publications and has been listed in the Directory of American Poets since 1970. She is Vice-President of the Ameridian Circle, Secretary-Treasurer of the Human Environment Center, and a member of the Boards of Directors of the Minority Legislative Education Program, the National Institute for Women of Color, and ON/AIR.

•

Other Professional Staff

Rebecca Martinez, a Chicana from Utah, joined the NARF staff as a legal secretary in 1977. She then worked as administrative secretary from 1978 to 1979, and was promoted to Office Manager in 1979. Her duties in this capacity include office and support staff management. Becky is currently pursuing studies at the University of Colorado to obtain her B.A.

•

Marian Heymsfield joined the NARF staff as bookkeeper in January 1979. She received her Bachelor of Arts in Economics from the University of California at Los Angeles, summa cum laude, in 1974. Marian was promoted to Head Bookkeeper in May 1978.

•

Gloria Cuny, Oglala Sioux, joined NARF as a legal secretary in May 1975. In February of 1981 she was appointed Administrative Assistant for the Indian Law Support Center.

•

Oran LaPointe, a member of the Rosebud Sioux Tribe of South Dakota, is a graduate of the University of Kansas. He worked for NARF for three years as a research assistant for the National Indian Law Library, when he left in 1977 to work as Communications Director for the Coalition of Indian Controlled School Boards, and later as research assistant for the Council of Energy Resource Tribes. He rejoined NARF in September of 1979 as the Technical Writer and Corporate Secretary.

Mary Hanewall joined NARF in February 1981 as NARF's Development Officer. After receiving her Bachelor of Arts degree in Communications from the University of Wisconsin-Madison, Mary was active in a variety of public and private organizations. She has worked for the March of Dimes, the League of Women Voters, the Waubesa Lakes' Association of Wisconsin, and has held various other positions involving fund raising, public relations, administration, writing and editing.

•

Diana Lim Garry, National Indian Law Library librarian, joined NARF in 1972 and has been the NILL librarian since 1973. She is an Acoma Pueblo from New Mexico and received her B. A. degree from the University of Colorado in 1971.

•

Susan Rosseter Hart, Controller and Corporate Treasurer, has been with NARF since 1971. She first joined NARF as an assistant bookkeeper, and became head bookkeeper in October of 1975. In May of 1978, she was promoted to Corporate Treasurer. Susan received her Bachelor of Arts degree in Business Administration from Denvers' Loretto Heights College in 1981.

•

Bryce M. Wildcat, a Pawnee-Euchee Indian from Oklahoma, joined NARF in September of 1980 as a research assistant for the National Indian Law Library. He previously worked as an alcohol and drug counselor, the U.S. Forest Service, and as a juvenile counselor with the Southwest Indian Youth Center in Tucson. He attended Cambridge University in England on an English literature scholarship, and in 1979, he received a B.A. degree from the University of Montana.

BEST COPY AVAILABLE

State Index

Arizona

Arizona v. California 27
Ft. McDowell v. SRP 34
Orme Dam 35
Papago-Vekol Valley 39

California

Table Bluff Rancheria 23
Mission Indian Water Rights 32
D-Q University 45
Point Conception 48

Colorado

Ute Water Rights 33
Southern Ute Reservation Boundary 36
In re Davis 45

Connecticut

Western Pequot Land Claim 20
Schaghticoke Land Claim 25
Mohegan Tribe v. Connecticut 26

Florida

Askew v. Seminole 26

Idaho

Brooks v. Nez Perce County 42

Iowa

Ross v. Scurr 46

Kansas

Marshno v. McManus 47

Louisiana

Tunica-Biloxi 19

Massachusetts

Mashpee Recognition 19
Gay Head Wampanoag 23

Michigan

Sault Ste. Marie v. Andrus 24
U.S. v. Michigan 28
Keweenaw Census Count 50

Montana

Kennerly v. Blackfeet Tribe 22
Blackfeet Tribe v. Groff 26
Northern Cheyenne v. Adsit 29
Crow Section Two 34
Montana v. U.S. 42
Kootenai Falls 44
Blackfeet Community College 46

Nebraska

NPPD v. 100.95 Acres 36
White Eagle v. Storie 47

Nevada

U.S. v. Southern Pacific 30
Pyramid Lake Paiute Water Rights 31
Southern Pacific v. Andrus 34
Summit Lake Water Rights 36

New Mexico

Merrion v. Jicarilla Tribe 26
Baca Geothermal Project 44

New York

Stockbridge-Munsee Land Claim 25
Oneida Land Claims 37

North Carolina

Eastern Cherokee School Closure 45
Maynor v. Morton 50

North Dakota

Davis v. Mueller 24

Oklahoma

Tax Commission v. Mays 20
Cheyenne-Arapaho Workshop 22
Pawnee Food Co-op 22
Logan v. Andrus 25
Cheyenne-Arapaho Oil Lease 35
Kaw Land Acquisition 38
Cheyenne-Arapaho v. Oklahoma 39
Yellowfish v. City of Stillwater 42
Wetumka Impact Aid 43
Pawnee Indian Hospital Closure 44
Cheyenne-Arapaho Airport Expansion 45
Creek Cemetary Ordinances 47
Sand Creek Massacre 49
Seminole Food Distribution 49
In re Knight 50
Seminole Jurisdiction Matter 50

Oregon

Siletz Reservation Establishment 24
U.S. v. Adair 35
Kimball v. Callahan 36

South Carolina

Catawba Land Claim 20

South Dakota

Yankton Sioux v. Nelson 27
Rosebud Sioux Water Contracts 34
Sioux Water Rights 36
South Dakota v. Janis 37
Sisseton-Wahpeton Parent Comm. 47
So. Dak. Trust Land Claims 51
Wright v. Schweiker 51
Rosebud Sioux Federal Audit 51

Texas

Alabama-Coushatta Restoration 19
Traditional Kickapoo 21

Utah

Badoni v. Higginson 48

Virginia

Pamunkey Land Claim 29

Washington

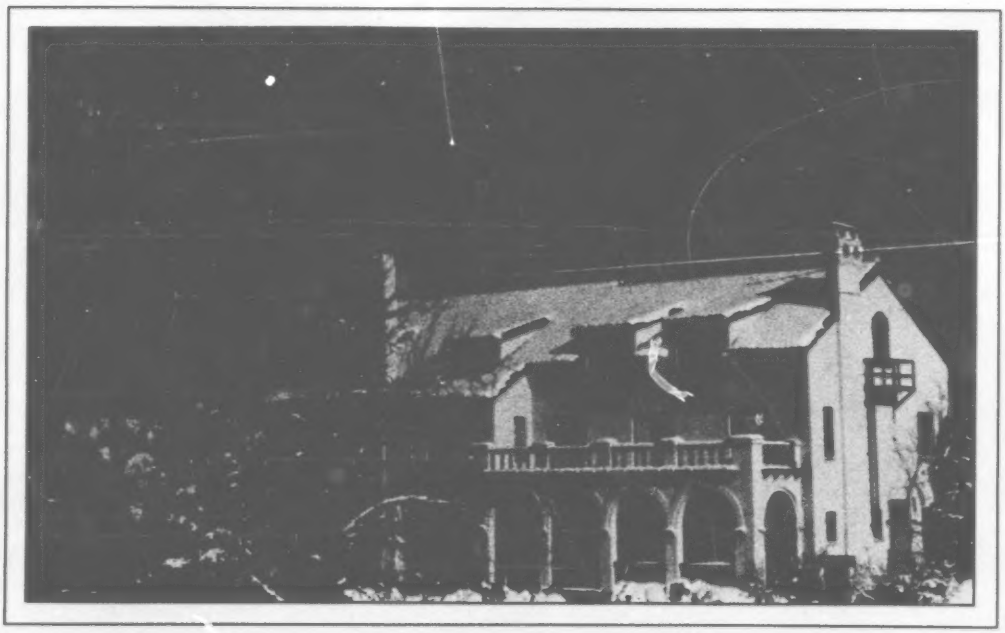
Muckleshoot Water Rights 33
Muckleshoot Tribe: FERC 38
Swinomish Trespass Cases 39
Burlington Northern v. Andrus 42

Wisconsin

Menominee Constitution Workshop 21
Wisconsin v. Baker 35
LCO Project No. 108 38

Miscellaneous National Activities

Tribal Revenue Bonds 22
Tribal Governmental Tax Status Act 23
Statute of Limitations Oversight 30
NACIE 44
Indian Religious Freedom Act 46
AIHEC 48
Federal Indian Appropriations 49
National Indian Law Library 52
Indian Law Support Center 53
Cohen Revision 55
Conference Activities 55



Native American Rights Fund, Boulder, Colorado

BEST COPY AVAILABLE